

1 TERRITORIAL COURT

2 IQALUIT, N.W.T.

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6 REASONS FOR JUDGMENT

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8 JUDGE ORVAL TROY

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12 IN THE MURDER CHARGE OF

13 P. N.

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16 UNDER SECTION 218(1) OF
17 THE CRIMINAL CODE OF CANADA

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21 Hearing held in the Territorial Court,
22 Iqaluit, Northwest Territories on the
23 8th day of July, 1987.

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1 THE COURT: Well, I have had the opportunity during
2 the adjournment to read the six exhibits that both counsel
3 agreed should be entered in this matter in respect to Peter
4 Noah.

5 Earlier today in the proceedings he was charged with
6 First Degree Murder as a Young Offender and under the
7 provisions of the Code he pleaded Guilty to Second Degree
8 Murder, pursuant to Section 534 of the Criminal Code whereby
9 he can plead Guilty to an included or lesser offence. And
10 Second Murder is a lesser offence to First Degree Murder.
11 And after the facts were given to the Court by the Crown and
12 commented on by the Defence and the Defence accepted those
13 facts, with a couple of qualifications, the Court agreed
14 that this was a proper case for Second Degree Murder.

15 It appears that on December the 7th, 1986 that the
16 victim in this matter, Mary Lucasi and her husband, came
17 home and they had been drinking. An argument took place
18 between them and the husband left the house, and Mary Lucasi
19 was left in the house alone. And she remained in the home
20 at that time when the husband left. She laid down on the
21 couch and went to sleep, probably because of her drinking.

22 At that time the young offender, P N , was in the
23 house and he was the only other person in the house with
24 Mary Lucasi. He wandered around the house and went into the
25 kitchen and got a knife and went back into the living room
26 and apparently there had been some words about his
27 association with the daughter of the victim and as a result

1 of that, for some reason or other, he got a knife and went
2 up to Mary Lucasi as she was on the couch and cut her in the
3 throat with the knife.

4 He stabbed her several times in the lower back area.
5 She rolled over trying to protect herself with her hands and
6 got several cuts on her hands, all of which is reported and
7 accepted by both counsel, and is contained in the medical
8 reports that were filed as exhibits.

9 She was left with several stab wounds, some of them
10 quite severe and internal, and he then threw the knife on
11 the floor of the house and left the residence. He went to
12 some relatives' house, and he washed up and then went to his
13 own house which was not the house in which Mary Lucasi
14 lived.

15 This all happened in the mid-hours of the evening, 9:00
16 to 9:30, 10:00 - between 9:00 and 10 o'clock in the evening
17 and at 11:30 p.m. in the evening he went back to the
18 residence of Mary Lucasi and found the knife on the floor in
19 the house. He saw Mary Lucasi on the floor, who had not yet
20 been discovered by anyone, and he went out of the house and
21 threw the knife in the snowbank and returned to his own
22 residence. All of this took place before midnight.

23 At around 1:10 a.m. in the morning of 8th of December,
24 Mary Lucasi was located by a returning relative to the house
25 and she was still alive. The police were called and an
26 ambulance and she was taken to hospital where she had 14
27 hours of emergency surgery and intensive care treatment. A

1 kidney was removed; there were three punctures to the lung,
2 and there was several medical treatments given to try to
3 save her life which was in grave danger at this point. And
4 eventually the medical authorities decided to medivac her to
5 Montreal. And they did that, and there she was in intensive
6 care and more reports on efforts to save her life.

7 She deteriorated while in Montreal, and she died on
8 January the 11th, 1987 of massive trauma from the injuries
9 received from this assault by P N .

10 I should mention at this point that when these
11 proceedings began there was an order by the Court at the
12 request of the Crown Attorney and allowed under the Young
13 Offenders' Act that the name of the young offender is not to
14 be publicized and that Order is in effect, and if there are
15 any newspaper people here I am sure they are aware of the
16 Order and that they will pay attention to that.

17 That Order means by not being publicized that there
18 should not be any mention of the name of the father of this
19 young offender either because you might as well put his name
20 in neon lights if you are going to name the father because
21 everyone would know who it is.

22 So I just caution everyone concerned that there is an
23 Order to that effect issued by the Court under the authority
24 of the Young Offenders' Act.

25 I should also point out that before surgery was given to
26 Mary Lucasi she mentioned that it was the accused who had
27 stabbed her and cut her throat. There was some discussion

1 by Crown Counsel in his alleged facts that there had been
2 some arguments between the victim and the accused about his
3 relationship with the victim's daughter and apparently one
4 can only assume that this may have had some bearing on what
5 happened. This has not been fully explained and one can
6 only guess.

7 On being questioned after being arrested the young
8 offender admitted that he had stabbed her several times and
9 he said that he had used a big knife which was the knife
10 that he got from the kitchen. He said he had done it when
11 Mary was sleeping and that he had cut her throat. He said
12 it was not his fault, it was "Evil's fault"; some indication
13 that he thought the Devil made him do it or something like
14 that.

15 There were several exhibits which were entered. Now
16 those were the facts as given by the Crown. The Defence
17 admitted that these facts were the true facts with some
18 qualification. The accused admitted telling the Police that
19 Mary Lucasi had limited his access to her daughter, who was
20 a young person about his own age. He admitted saying this
21 to Police but he denies that this was the motive of his
22 actions.

23 He also admitted, through his counsel, that he had been
24 knife-toking most of the day of the 7th. That was the day -
25 but he had denied this to the Police when he was questioned.
26 And the R.C.M.P. had investigated this knife-toking
27 incident. Apparently they questioned some of the people who

1 were supposed to be knife-toking with him, and the police
2 were of the opinion that this did not support P N 's
3 theory, but the Defence did their own investigation and
4 questioning various people and they came to an opposite
5 point of view, that there had been some knife-toking during
6 the day by this young offender.

7 The Defendant's position is that he was knife-toking
8 drugs, which would be hash I suppose, and according to the
9 Defence of what knife-toking is, is that you heat little
10 pieces of hash on the tip of the knife, heat the knife and
11 you sniff the resulting aromas and smoke which could cause
12 you to have some sort of a high. And there has to be some
13 reason for this bizarre action by young P N who was
14 17 at the time, very immature, not very experienced with
15 life or association with people, or even with young girls.
16 Maybe he was upset between the knife-toking and lost his
17 judgment and did this terrible thing that he did on this
18 occasion.

19 I am willing to accept the qualifications submitted by
20 the Defence because it seems to give some reason for why
21 this was done. It is a terrible thing and as Defence
22 Counsel has said, this young man is full of remorse when he
23 realizes now the terrible thing he had done. It appears
24 that he didn't intend to kill, but he certainly intended to
25 cause bodily harm to this lady which resulted in her
26 death. And that is what he has been convicted of - Second
27 Degree Murder.

1 There were exhibits recorded. There was a Dr. Hinchess'
2 report which dealt with the multiple wounds given to Mary
3 Lucasi and the great effort made by the doctors, not only in
4 Igloodit, but in Montreal, to save her life, but there wasn't
5 much they could do.

6 There was a report of an Andy Langford, who is an M.A.,
7 a trained psychologist and he has a degree in psychology as
8 well and is with the Government of the Northwest Territories
9 Social Services, who gives a background report on the life
10 style and background history of the young offender and his
11 family, and makes some assumptions as to what may have led
12 up to this.

13 I also accept the Defence's qualification in respect to
14 his report in that his assumptions that there is a major
15 mental disorder finding in respect to this young man may or
16 may not be so. The Defence do not accept that.

17 In some of the reports, in the Langford report and in
18 the Pre-Disposition Report prepared by the Social Service
19 Agency, they said this young man was - sometimes could
20 relate quite well with other people. He was not of average
21 intelligence. He was slightly below average intelligence.
22 His background was such that he had not had much chance to
23 learn how to live and relate with other people or cope with
24 emergencies and criticism that may have resulted in this
25 situation.

26 His family background is such that he was brought up by
27 other than his natural parents. His relatives have been

1 associated with alcohol and he seems to have been happy when
2 he was out on the land with his grandparents. Apparently he
3 is a carver and can make money at carving, and can get along
4 with people if given the right opportunity, although it
5 seemed that from some of the reports, especially when he was
6 in the Correctional Institute, that when faced with crises,
7 emotional crises or criticism from others, that he flares up
8 and shows great temper. The result of that being that he is
9 an immature young person who needs discipline and guidance
10 and supervision.

11 He also has a record of convictions. And I have read
12 all these exhibits, not only once but twice in full, because
13 this is a serious matter for the community; for this young
14 man; for his father and his mother and his grandparents, and
15 for the relatives of the victim. And of course it was a
16 serious, most serious matter for the victim who of course
17 did not survive.

18 As a result of her tragic death her life has been cut
19 short by several years, perhaps 20 years or more. It was a
20 needless, stupid death that there was no need of taking
21 place under any circumstances. No justification whatsoever
22 for this type of action and this desire to hurt someone else
23 in this way over some little misunderstanding which is not
24 fully known in the facts given to the Court, and probably
25 will never be known.

26 Under the Young Offenders' Act it is one of the
27 requirements that notice be given to the parents and that

1 they be present in Court if they wished to be, and I
2 understand that the young offender's father has been here
3 today. I don't know whether he is here now. He was here
4 all afternoon.

5 MR. SHARKEY: It is J N

6 THE COURT: He is still here? You are here. Yes,
7 that's fine. I am glad to see you are here and taking an
8 interest in your son and his future. So I am sure you are
9 very interested and concerned about what is going to happen
10 to him and what is going to happen to try and straighten him
11 out so that he can, when whatever penalty is given to him,
12 he can come back and try to, with some rehabilitation, try
13 to lead a normal life and one that will allow him to go back
14 into society with some feeling of self-esteem and a chance
15 to make up for what he has done and to do some good, not
16 only for himself, but for society and for this community and
17 for his own family and possibly the family of the victims.
18 He does have some remorse.

19 This is a very, very serious case and counsel have been
20 most helpful, both counsel, and I realize they have had some
21 very important and serious decisions to make in respect to
22 the recommendations that they have put before the Court.

23 It is agreed that he was 17 years and 3 months at the
24 time of the offence. He is now 17 years and 9 months. And
25 he has spent from the 8th of December until now on remand in
26 jail which is what - which is nearly 7 months, and is a long
27 time for a young person.

1 And under the Young Offenders' Act the law provides that
2 whatever penalty a Youth Court Judge gives to a young
3 offender who is almost an adult, and that penalty is called
4 a disposition in Youth Court, that that disposition may
5 continue after he becomes an adult.

6 So whatever is done to this young offender today he will
7 still fall under the Young Offenders' Act and under the
8 provisions of that Act. The principles laid down in the
9 Young Offenders' Act is that it says - one of the things it
10 says is that young persons who commit offences that are
11 contrary to law should bear responsibility for those
12 offences.

13 It is also laid down in the Young Offenders' Act that
14 society, although it has a responsibility to take reasonable
15 measures to prevent criminal conduct by young persons, must
16 be afforded necessary protection from the illegal behaviour
17 of this type.

18 It is also laid down in the Young Offenders' Act that
19 young persons that commit offences require supervision,
20 discipline and control, but because of the state of
21 dependency and level of development and maturity they also
22 have special needs and require guidance and assistance.

23 So young people are to be treated in a different way
24 than adults under the Act. And these principles, and many
25 others, must be kept in mind. And it appears that all his
26 rights under the Charter, and all of the legal assistance
27 that can be given has been given to him. He has received

1 legal advice from the Legal Aid people who are here. The
2 representations made by the Crown were very fair. The
3 representations made by the Defence were proper and were
4 fair, not only to the accused, but to society and to his
5 parents, his father.

6 And it is a very difficult thing to know what to do.
7 But both counsel have agreed in this case that it was a
8 serious crime and the Crown has requested that the maximum
9 penalty be applied here - the maximum penalty under the
10 Young Offenders' Act be applied here. And the maximum
11 penalty that can be applied to a young offender who is found
12 Guilty of First or Second Degree Murder, in this case Second
13 Degree Murder, is three years closed custody.

14 Now, in three years closed custody means exactly that.
15 That means that this young man will go to jail for three
16 years or will go into closed custody for three years. It is
17 not jail. There are special facilities for young people.
18 There is special supervision, special rules and discipline
19 that they are exposed to which undoubtedly this young man
20 has been in need of for many years, and he will now get.
21 There is a hope that under the proper supervision and
22 programs that in the next three years that he is in jail
23 that he will receive the kind of discipline and supervision
24 and counselling that will result in him being released back
25 into society as a decent young man.

26 He will be 20 years old, nearly 20 years old when he
27 finishes his three-year sentence. Because of his immaturity

1 and his need for discipline and development, the Court is
2 convinced that this is a proper sentence that should be
3 applied and from the unanimity and from the unanimous
4 recommendations made by Counsel it would appear, and the
5 Court has considered this as well, that they took into
6 consideration the seven months that he has spent in remand.

7 I could, I suppose, take off that seven months and make
8 it two years and six months, but I don't intend to do that
9 because this offence, because of its senseless attack
10 without provocation, without too much provocation, I am not
11 sure if there was any provocation that deserved this kind of
12 conduct resulting, but I think that that has been considered
13 and I have no hesitation in imposing the three years closed
14 custody. And I hope that as a result of that that this
15 young person will come out of this supervision and control
16 by society as a useful citizen.

17 Another thing that I am going to do is if the results of
18 this closed custody give him the necessary rehabilitative,
19 positive results that everyone hopes will come out of it,
20 and of course the Young Offenders' Act advocates and
21 Parliament and society have agreed is the best way to treat
22 young offenders it would, I think, be disastrous for this
23 young man to be released once more on society without some
24 type of supervision and control while he is readjusting
25 himself back to a normal life.

26 Last year, as was pointed out by the Crown Attorney,
27 there was a bill passed in Parliament, C-19, and they made

1 some amendments which both counsel agree result in the Court
2 having, where there is one offence, the power and the
3 authority to impose a period of probation.

4 And it is in the best interest, it is being done not
5 only in the best interest of this young man, as I previously
6 stated, so that he can come back into society and continue,
7 I hope, with a positive result that may result from his
8 closed custody; but that he will be under some supervision
9 while he is readjusting and getting to know his father and
10 his mother and his grandparents again and the people in the
11 community; and by that time would have lost his desire to
12 get annoyed and upset every time things don't go his way;
13 and that he will have lost any feelings he might have to
14 want to rush out and hurt someone because they have
15 criticized him, or don't agree exactly with his idea of the
16 way things should be done.

17 So there were certain conditions that were agreed upon
18 by both counsel and they were submitted to the Court as
19 recommendations of conditions that should go in a probation
20 order. I agreed with the recommendations from all counsel
21 and the Court and this community thank counsel for the many
22 hours that they have spent in preparing these conditions.

23 So, P. , in addition to the three years closed
24 custody, I am going to prescribe in the probation order that
25 for a period of three years after you are released from
26 custody, that will be three years from today, that you shall
27 keep the peace for two years under that probation order;

1 that you should keep the peace and be of good behaviour;
2 that you as a young person shall appear before the Youth
3 Court when required by the Court to do so and even though in
4 three years time you will be 20 years, you will still be
5 under the direction and authority of the Youth Court of the
6 Northwest Territories, and under supervision you will be
7 answerable to that Court as well.

8 The young person must notify the Territorial Director or
9 the Youth Worker assigned to his case or her case, as the
10 case may be, of any change of address or any change of place
11 of employment, education or training.

12 Upon your release you are to report to the Youth Worker
13 in Iqaluit immediately and thereafter as directed by the
14 Youth Worker. You are to submit yourself to any psychiatric
15 or psychological counselling directed by your Youth
16 worker. You are not to possess or consume any known
17 prescription drugs including hashish and marijuana. You are
18 to refrain from the possession and consumption of any
19 alcoholic beverages. You are to submit to any breathalyzer
20 test upon demand from any police officer, and you are not to
21 have in your possession any knife other than in your
22 residence or if living on the land.

23 Now what that means, you only use a knife to eat with.
24 You are not to use it to take up and smoke hash because you
25 are not allowed to do that, and not to have any big knives
26 in your possession. You can use knives for eating or
27 hunting, for skinning caribou or cutting or skinning fish or

1 something like that, but that is all.

2 Now those are the conditions which I am giving and they
3 are quite lengthy and they are thorough and they have been
4 agreed upon by both counsel. I am sure that your counsel
5 has discussed this with you and that he has discussed it
6 with your father and that both you and your father are aware
7 of what everyone is trying to do to help you to become a
8 good boy.

9 Now in addition to that, you are subject to all the same
10 laws as any adult in Canada even as a youth offender which
11 you are today. And under the laws of Canada this Court, as
12 the Youth Court, has the authority to prohibit you because
13 you used a weapon of violence and committed a violent act on
14 a fellow human being, has the power to prohibit you from the
15 possession and use of any firearm, ammunition, or explosive
16 substance for a period of up to five years from the time of
17 your release from prison.

18 Now that is contained in your Probation Order, but I am
19 going to make that Order prohibiting you and that will be a
20 written-out Order and you will be given a copy of it and
21 just so that you understand what it is and what it means
22 under Section 98(2) of the Criminal Code in addition to any
23 other punishment that may be imposed for your offence, the
24 Court may make an Order prohibiting you from having in your
25 possession any firearm or any ammunition or explosive
26 substance for any period of time specific in the Order which
27 is five years - five years after your time and release from

1 imprisonment after conviction for the offence. So that is
2 what I am going to do.

3 Now that doesn't mean that you can't go hunting. You
4 can go hunting with other people but you can't, yourself, be
5 involved in the use, possession, handling, shipping or
6 storage of any firearm. You have to be very, very careful
7 that when you are around people with firearms because you
8 can get in a lot of trouble. Do you understand?

9 THE YOUNG OFFENDER: Yes.

10 THE COURT: The best thing to do is just forget about
11 being around any firearms until you are 22 years old. Okay.

12 THE YOUNG OFFENDER: Yes.

13 THE COURT: Yes. And in addition to that under the
14 Criminal Code, Section 98(13), the Court can also put in
15 that Order that you must surrender to a peace officer or
16 firearms officer or otherwise lawfully dispose of any
17 firearm, ammunition or explosive substance lawfully
18 possessed by you.

19 So if you have a gun or knife, rifle, given to you by
20 your father or grandfather and is at your home, you'd better
21 write a letter to them and tell them that that rifle is
22 given to them and you don't want it any more because I am
23 making an Order that you can do it that way or you can just
24 turn the rifle and anything you have of that nature over to
25 the police and they will keep it for you for five years.
26 But that is up to you. Your lawyer will explain all that to
27 you.

1 Now, what is going to happen now is that you are going
2 to remain in custody. A Probation Order is being made so it
3 will be prepared by the Clerk of the Court who is sitting up
4 here, and when we have an adjournment, along with your
5 lawyer, he will take you into the registry, the Court
6 Registry in here, and he will read that Probation Order to
7 you and I will sign that Probation Order and then they will
8 ask you to sign it and it will be witnessed by either your
9 lawyer or by some other independent witness so that we will
10 know that, and you will be asked if you understand it, and
11 if you don't understand anything in it or anything I have
12 said I want you to tell your lawyer and it will all be
13 explained to you by the Court or if you wish to come back in
14 Court I will explain it to you myself.

15 Your father I notice is here and he has been listening,
16 and I am sure he understands. If he wants to be present
17 when you sign that Probation Order he can be there as well.

18 Now, under the Act I am supposed to give everyone
19 involved with the young offender and interested in the young
20 offender the opportunity to be heard, either yourself or you
21 can be heard through your counsel, which you have been, or
22 your father has a right to be heard by this Court. I am
23 sure that was explained to him and he knew he had that right
24 throughout this whole proceeding. If there anything you
25 wish to say about this now, now is the time for you to do
26 it.

27 Do you wish to tell us your story? You can do that.


1 There is not much anyone can do about the situation now. We
2 certainly cannot bring Mary Lucasi's life back, but we
3 certainly may be in a position of brining your life back to
4 a normal course in due course.

5 So is there anything you would like to say?

6 THE YOUNG OFFENDER: I would like to say sorry to Mary
7 Lucasi's family.

8 THE COURT: That is fine. Thank you.

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27 Norma Daniel, Shorthand Reporter