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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

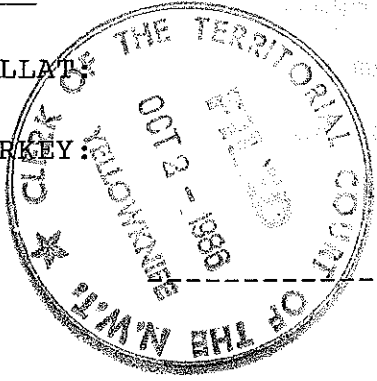
LYTA JOSEPHÉE

Transcript of the Oral Sentencing Delivered by His Honour
Judge T. B. Davis, sitting at Frobisher Bay in the
Northwest Territories, on Tuesday, September 23rd, A.D.,
1986.

APPEARANCES:

MS. N. BOILLAT, Counsel for the Crown

MR. N. SHARKEY, Counsel for the Defence



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1 THE COURT: Lyta Josephee admits that while he was under
2 the influence of alcohol on April the 28th he broke and
3 entered the Frobisher Bay High Rise, which is an apartment
4 building in Frobisher Bay, and at that time entered one
5 apartment building looking for liquor, and then in addition
6 thereto broke the doors in two other apartments on the
7 same floor and rummaged through one of the apartments and
8 took some keys, and in the same apartment, or in one of
9 the apartments did some damage totalling a number of hundreds
10 of dollars to a speaker of a stereo set, a VCR, and took
11 a carving, so there were a number of hundreds of dollars
12 done in damage.

13 He was later arrested at the Pool Hall, and he still
14 had in his possession some keys that were taken from one
15 of the apartments. Damage to the door frames themselves
16 and replacement of the doors came to \$550.

17 It would seem to me that Mr. Josephee, who has been
18 in jail for a period of time now on another offence that
19 occurred subsequent to the break and enter charge before
20 the court today, has been serving a total of seven months
21 on two offences and might have some difficulty making payment
22 of restitution for the damage done. I certainly feel that
23 it would be appropriate for me to consider having some
24 form of partial restitution, at least for the carving that
25 was missing and the damage to the speaker and the VCR.

26 However, with regard to the penalty to be imposed,
27 I have listened to counsel, and I do feel that an additional

1 period of time in jail is required, because I am of the
2 opinion that if this matter had been dealt with at the
3 time that the seven month jail term was imposed, it would
4 have been increased by a short period to take into account
5 the additional acts of the accused that has been dealt
6 with tonight.

7 Therefore, I feel that it is appropriate for me to
8 impose a short additional jail term as would have occurred
9 had all of this been dealt with together. That is giving
10 the benefit of the delay to the accused, because there
11 have been some decisions of courts which indicate that
12 even though it did occur in advance that it could be dealt
13 with separately, and that totality need not be taken into
14 account to the same extent that I feel is appropriate to
15 take it into account tonight.

16 Mr. Josephee is a 21 year old man who has a substantial
17 criminal record, but he also has shown to the public that
18 he is a person who has contributed substantially in the
19 form of coaching and participation in sports, and if he
20 could stay away from alcohol and intoxicants, he probably
21 could make a success of his life.

22 He has shown that he is willing to try to improve
23 himself by upgrading while he has been in prison. I would
24 hope that he will soon do something more to put himself
25 in a position where he can overcome his problems because
26 it certainly is interfering substantially with his life.

27 He has now been in jail a good portion of the last

1 two years. Even though the additional jail term might
2 be considered very low, I feel that an additional two months
3 in jail would be sufficient for my purposes to satisfy
4 what I think would have been the additional term in jail
5 had I dealt with it on a previous occasion.

6 But in addition thereto, I am going to place the accused
7 on probation for a period of one year and require that
8 he report to the probation officer when and as directed.
9 He will also be required to participate in any alcohol
10 counselling programs directed by the probation officer.
11 I am considering having the accused make some effort at
12 making payment of restitution to the person whose television
13 and speaker was damaged. I know that is not going to be
14 easy, but if the accused is taking his educational programs,
15 it may not be even possible.

16 Mr. Sharkey, is he going to have any income while
17 he is taking his educational programs?

18 MR. SHARKEY: I don't think sufficient eventually to make
19 restitution in a short time. I know a probation order
20 can only be three years long, and I would suggest some
21 community service in the alternative.

22 THE COURT: Yes. The only thing is that the benefit
23 doesn't go to the person who has had the goods damaged
24 then. If I put the probation order at a two year period,
25 would it be worthwhile having him make payment of restitution
26 of \$500 or partial restitution of \$500 to the person who
27 had the injury done?

1 MR. SHARKEY: He could do that in two years.

2 THE COURT: Alright. The probation term will be for
3 a period of two years, Madam Clerk, and Madam Prosecutor,
4 do you have the name of the apartment dweller who has the
5 damage?

6 MS. BOILLAT: That is Mary Ashoona, and she lives at apartment
7 416.

8 THE COURT: Thank you. Then in addition to the participating
9 in counselling, I am going to require that the accused
10 make payment in the amount of \$400 as partial restitution
11 to the Clerk of the Court for the benefit of Mary Ashoona
12 of apartment 416 in the High Rise at Frobisher Bay. I
13 think the \$400 will have to be paid within 14 months.
14 It should be no problem over that period of time if he
15 has been taking his educational training and keeping out
16 of trouble during that time, and if he can't pay it by
17 the 14th month, he can apply for an extension for a couple
18 of months and still be within the probation period.

19 Do you understand that, Mr. Josephee, that you are
20 expected to pay \$400 to this lady as soon as you can do so.

21 THE CLERK: Is the two months to be consecutive or
22 concurrent, sir?

23 THE COURT: Oh, yes, I'm sorry. It has to be consecutive.
24 The clerk will be preparing the probation order. It may
25 be that that won't be available until tomorrow for signature,
26 but at the convenience of the clerk it will have to be
27 signed later.

1 THE CLERK: Counts two and three, sir?
2 THE COURT: Yes, thank you. What about counts two and
3 three?
4 MS. BOILLAT: Yes, sir. The Crown is not proceeding on
5 those.
6 THE COURT: Thank you. Counts two and three then are
7 dismissed for lack of prosecution. Thank you.

8 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED.)
9

10 Certified a correct transcript,
11

12 Laurie Ann Young
13 Laurie Ann Young
14 Court Reporter
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