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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

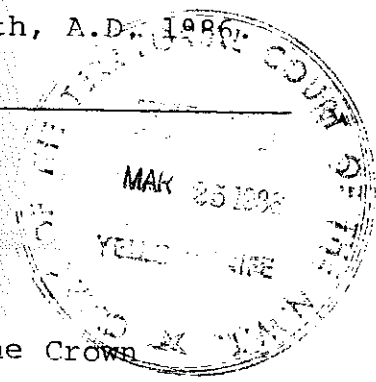
IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

S N

Transcript of the oral sentencing delivered by His Honour Judge T.B. Davis, sitting at Cape Dorset, in the Northwest Territories, Friday, March 14th, A.D. 1986.



APPEARANCES:

MS. N. BOILLAT Counsel for the Crown
MR. N. SHARKEY Counsel for the Defence

120279

CHARGE READ: *Oct 23/85* *A Reynolds*
DATE JUDGE OF JUSTICE

CROWN ELECTION: Summary Conviction: Indictment:

ACCUSED ELECTION: *M. Davis*
Magistrate: Judge & Jury: Judge:

MAR 11 1986 *T.D. Davis*
DATE JUDGE OR JUSTICE

PLEA: Guilty: Not Guilty:

Mar 11 1986 *T.D. Davis*
DATE JUDGE OR JUSTICE

FAILURE TO APPEAR: *T.D. DAVIS, JUDGE*
Bench Warrant Issued:

Mar 11 1986 *T.D. Davis*
DATE JUDGE OR JUSTICE

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

DISPOSITION
Convicted: Dismissed: Withdrawn:
FINE: _____
J.P. COSTS: _____
POLICE COSTS: _____
RESTITUTION: _____
TOTAL: _____
DEFAULT: _____
TIME TO PAY: _____
SUSPENDED SENTENCE:
CONDITIONAL DISCH: ABSOLUTE DISCH:
PROBATION FOR: *ill sent served*
IMPRISONMENT FOR: *25 Days Int*
MAR 11 1986 *T.D. Davis*
DATE JUDGE OR JUSTICE

STATISTICS
DATE OF BIRTH: *55-05-28* M: F:
DRIVER'S LICENCE: _____
MARITAL STATUS: *Single*

Sworn before me this *19* day of *October*
A.D. 19 *85*

at *Cape Dorset, Northwest Territories.*

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

Appearance Notice Promise to Appear Recognizance

DISTRIBUTION: 1. Clerk of the Judge's Court 2. Registrar of Motor Vehicles 3. Police Copy 4. Crown Attorney 5. Defence

CRIMINAL CODE FORM 2 (Sections 456, 455-1 and 723)
NWT 1961 - 80/1180

J.P. or Judge's Number *2451510*

THIS IS THE INFORMATION OF Danny Clayton FUDGE
(insert full name, residence and occupation of informant)

a member of the Royal Canadian Mounted Po
OF Hamlet of Cape Dorset, Northwest Territ

a peace officer
HEREINAFTER CALLED THE INFORMANT

THE INFORMANT SAYS THAT he has reasonable and pro
(if the informant has not personal knowledge, state that he has reasonable and probable grounds to believe and does believe and state the offence)
grounds to believe and does believe that:

S N

On or about the twenty-ninth day of September 1985, at or near the Hamlet of Cape Dorset the Northwest Territories, did commit a assault on, M. R. Contrary to Section 246.1 of the Criminal Code.

CARD
OIS
T.T.P.
D.B.S.
J.P.
M.V.R.

Danny Clayton Fudge
(D.C. FUDGE) Cpl.
Signature of Informant

confirmed _____ 19 _____
Justice of the Peace

1 THE COURT: S N appears before the Court
2 admitting that on September the 29th, 1985 he observed a
3 seventeen year old cousin who was going to her home early in
4 the morning and invited her to visit with him, but when she
5 refused she went to her house, locked her door, because she
6 felt the possibility that the accused might follow her. She
7 heard somebody then come in the other door, which was unlocked
8 in the house, and she thought she heard that person leave,
9 but, in fact, after she then went from her parent's bedroom
10 to go to sleep on the couch in the living room the accused
11 approached her and for a couple of hours assaulted her to the
12 extent that he warned her not to make any noise and he
13 attempted to touch her and remove her panties. After a while
14 he left with a threat that if she were to disclose to anybody
15 who was in the house or anybody of what had happened that
16 he would kill her and possibly kill himself.

17 The accused was subsequently arrested for this
18 offence and had indicated to the Court that at the time of the
19 offence he was intoxicated. There was no substantial violence
20 used, but the accused did struggle with the victim sufficiently
21 to ensure that she, as a crippled girl who requires crutches,
22 was not able to get away from him during this ordeal.

23 The accused is a man who comes before the
24 Court with a substantial record going back as far as 1973 and
25 carrying on right until August of 1985, which record includes
26 jail terms for various offences over that period of time. From
27 the evidence that the Court has heard at the sentencing hearing

1 today and from the submissions made, it is obvious that in
2 the early part or the middle of December, 1985 the accused
3 joined a Church and has changed his entire way of life. I
4 am satisfied after hearing the evidence that there has been
5 such a dramatic change that it is not necessary for me to put
6 emphasis on specific deterrence, because I believe the accused
7 himself has made efforts at rehabilitation which would, if
8 anything, be far more effective than any kind of penalty I
9 could impose for the purposes of specific deterrence or, in
10 other words, for the purposes of stopping the accused from
11 committing offences.

12 Another consideration, however, that is necessary
13 by the Court in order to protect the public is to impose
14 sentences that will deter other persons and the public from
15 committing similar offences because they know that penalties
16 will be imposed. Therefore, for the purpose of public
17 deterrence I feel that I must consider some form of penalty
18 for the accused, because the principles of sentencing have
19 required the Courts to consider public deterrence as a major
20 factor. It therefore is possible for the Court to look at
21 other cases of somewhat similar natures and facts and
22 circumstances, because they assist the Court in determining
23 what might be an appropriate sentence to be imposed. There
24 was a recent case in Frobisher Bay where a man with a good
25 background while he was intoxicated entered a house and
26 attempted to have sex with a woman who he found asleep. He
27 was honest and cooperative with the Police, showed remorse,

1 and the Territorial Court at that time felt that for the
2 purposes of general deterrence a sixty day jail term should
3 still be imposed, even though the person had a good background,
4 no criminal record and was well thought of in the community.

5 I feel in this instance before me today that I
6 also have to impose a short jail term on the accused, even
7 though I recognize that he himself has started on his own
8 rehabilitation and that the Court need not concern itself with
9 that aspect of the sentencing principles. But because of the
10 offence and its type I am sure the accused under these
11 circumstances will know that there must be some penalty imposed,
12 and since there has been such a change in the circumstances
13 of the accused and I feel that he will stay out of trouble, for
14 the purposes of general deterrence only in this instance I am
15 going to impose twenty-five days in jail. I will allow that
16 to be served intermittently, recognizing that that might be
17 very inconvenient locally, but taking into account that the
18 Appeal Courts have directed in the past that the trial Judge
19 must not concern himself with the inconvenience or the inability
20 of the facilities to provide the necessary services.

21 When would the time be most conveniently served
22 by the accused, and I will check and see if that's possible to
23 be provided. Would weekends be the right time?

24 MR. SHARKEY: Well, whenever they can get guards.

25 THE COURT: It might be that the accused would find it easier
26 to spend the time directly. Does he wish to have intermittent
27 sentencing and if so, when does he think it might be most helpful-

1 MR. SHARKEY: Well, sir, he would prefer to serve his sentence
2 here in the community.

3 THE COURT: When is the most convenient time for the guards
4 to be available, if they are going to be available, for the
5 serving of the time?

6 MS. BOILLAT: The Court will just have to give a time and
7 arrangements will have to be made, sir.

8 THE COURT: All right. Then we will suggest serving from
9 Friday at seven p.m. to Monday at seven a.m. will be the weekly
10 periods, and the first one to begin on Friday, the 14th day
11 of March, 1986.

12 Do you understand that sentence? You will be
13 placed on probation for the period of the sentence. The Clerk
14 will be preparing the probation order, and you will, of course,
15 have to appear each week thereafter to serve the time here in
16 Cape Dorset and report to the R.C.M.P. Station in the proper
17 state on each Friday at seven o'clock until the time is served.

18 Does that complete our docket for today?

19 MR. SHARKEY: There is another Information on--

20 THE COURT: Yes, there is another charge of assaulting a
21 Police Officer in the execution of his duty.

22 MS. BOILLAT: To be withdrawn, sir.

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Certified a correct transcript,



Jill MacDonald, Court Reporter.