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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

EDWIN GEORGE ERUTSE

Transcript of Proceedings held before His Honour Judge
T. B. Davis, sitting at Fort Good Hope, in the North-
west Territories, on Wednesday, November 14th, A.D.
1984.

APPEARANCES:

MR. N. SHARKEY Counsel for the Crown

MR. J. VERTES Counsel for the Defence

(Facts, submissions and sentencing)



1 THE CLERK: Edwin George Erutse.

2 MR. VERTES: I appear for Mr. Erutse, Your Honour. We're
3 prepared to enter a plea.

4 THE COURT: Mr. Erutse, on this charge of an assault which
5 caused bodily harm, you have an option to elect to be tried
6 by a Magistrate without a jury, or you may elect to be
7 tried by a Judge without a jury, or you may elect to be
8 tried by a Court composed of a Judge and jury. How do you
9 elect to be tried?

10 MR. ERUTSE: Magistrate, Your Honour.

11 THE COURT: And how do you plead to the charge that on the
12 29th of September you assaulted a person and caused bodily
13 harm, guilty or not guilty?

14 MR. ERUTSE: Guilty.

15 THE COURT: Have a seat, please.

16 MR. SHARKEY: What happened here, sir, was that the Complainant,
17 Betty Grandjambe, was walking home when her boyfriend,
18 the Defendant, grabbed her and threw her down and started
19 to kick her in the head and kept kicking her until she
20 lost consciousness. She didn't know why he assaulted her,
21 although she does say he was drunk at the time he assaulted
22 her. The Police were then shortly after this called to the
23 nursing station, and the nurse there was attending upon
24 Betty Grandjambe. She had severe bruising and swelling
25 around both eyes and her forehead. As well, she had bumps
26 and more marks on the back of her head. She was kept under
27 observation in Fort Good Hope until the 2nd of October.

1 This, by the way, happened around two in the morning of the
2 29th of September. And then she was flown to Inuvik for
3 closer examination. The reason she was flown to Inuvik
4 is, of course, for closer examination as to whether or not
5 there was any more extensive head injuries. It appears
6 from the report that there were not. Those are our facts.

7 MR. VERTES: The facts are admitted, Your Honour.

8 THE COURT: A conviction will be entered, then, under Section
9 245.1 of the Code.

10 MR. SHARKEY: There is a record of previous conviction, sir.
11 It is a mischief conviction in February of '84 here in Fort
12 Good Hope. The Defendant received a suspended sentence
13 and was placed on probation for six months. He was also
14 ordered to pay One hundred and forty dollars restitution.

15 MR. VERTES: That is admitted, Your Honour.

16 MR. SHARKEY: The Crown's position in this case with respect to
17 the most appropriate disposition is that the Defendant
18 should be sent to jail where he could think about it for a
19 while, what he did when he was drunk. And the reason we
20 say that is that the repetitive nature of the accused
21 kicking someone until they're unconscious is the type of
22 offence which does draw society's abhorrence and which
23 should draw a penalty that is the strongest form of penalty.
24 That is jail.

25 THE COURT: Mr. Vertes.

26 MR. VERTES: Thank you, Your Honour. Your Honour, Mr. Erutse
27 is nineteen years of age. He completed a grade eight

1 education in 1982. He lives here in Fort Good Hope with
2 his mother, who is employed as a field worker for the Band
3 Council, I am advised, and his brother. He was last employed
4 last winter for this Delta seismic company, earning at the
5 time approximately Three hundred dollars per week. He, too,
6 is anticipating starting their training program this winter
7 and hoping to obtain employment with them this winter once
8 again in the seismic exploration program.

9 With respect to the offence, Your Honour, the
10 accused indicates his explanation for this occurrence as
11 being that he was mad at his ex-girlfriend, the victim in
12 this case. They had a relationship and, in fact, lived
13 together for seven or eight months. She, I am advised, is
14 twenty-two years of age. The only explanation that Mr.
15 Erutse can give for his actions is that he became angry
16 with the lady earlier in the evening at a party when she
17 had apparently said some things and done some things which
18 made him angry. This is, of course, certainly not excusing
19 his conduct by any means, but I think combined with his
20 intoxication perhaps going more towards an explanation for
21 this act.

22 My colleague suggests a sentence of imprisonment
23 as being appropriate in this case. I think it is generally
24 held that in cases of personal violence where there are
25 injuries suffered by the victim who did nothing, in effect,
26 to bring it upon herself, an unprovoked attack such as many
27 that the Courts see, the only appropriate disposition is one

1 of jail, and not only to teach the individual, but to teach
2 others. That consideration, however, in my respectful sub-
3 mission must still be viewed within the parameters or the
4 principles of sentencing that have been developed by the
5 Courts both in the Northwest Territories and across Canada.
6 One of those fundametal principles of sentencing being that
7 when the Court is faced with a young offender, and I would
8 submit that Mr. Erutse qualifies for that designation, being
9 only nineteen years of age, with a young offender who has had
10 no previous contact with the law, or at least minimal previous
11 contact with the law, and I would suggest that Mr. Erutse's
12 previous record revealing only one conviction for mischief,
13 that being disposed of by a suspended sentence, would
14 certainly qualify in the category of being minimal contact
15 with the law. In those circumstances, our Courts have
16 developed a principle that they should emphasize the prospect
17 of the individual's reformation and rehabilitation and the
18 individual circumstances of the accused rather than what
19 we normally call either general deterrence or deterrence
20 to the public and to make an example of the accused. And
21 that is, of course, because our Courts recognize the fact
22 that young people should be given every opportunity to
23 reform their actions, that in many cases imprisonment serves
24 as a detrimental influence upon young people, and that
25 incarceration should be viewed upon as really the remedy of
26 last resort when someone has run out of all other options,
27 then should incarceration be looked at, indeed, only when

1 there is no other disposition that would be appropriate.

2 So, therefore, it is my respectful submission
3 that notwithstanding the fact that this is a case involving
4 personal violence and where the victim could have suffered
5 extensive injuries, but, indeed, did not suffer more
6 extensive injuries than she did, considering the young age
7 of the accused, his prospects for employment, it is my
8 respectful submission that the principles of deterrence both
9 for this accused and for others when balanced with the
10 other principles of sentencing can be satisfied by the
11 imposition of an alternative form of sentencing to merely
12 incarceration. That alternative form of sentencing, I would
13 suggest, being the imposition of a sentence of one day in
14 jail to be served by his attendance in Court, which would
15 show on Mr. Erutse's record that, indeed, this was not a
16 trivial matter, by the imposition of a fine with time to
17 pay, and by the imposition of a period of probation which
18 in itself would act as a check upon his behaviour in the
19 future, and, of course, if he exhibits a pattern of conduct,
20 then the appropriate measures can be taken. Those are my
21 submissions, Your Honour.

22 THE COURT: Mr. Edwin George Erutse, who is a nineteen year
23 old resident of Fort Good Hope in the Northwest Territories
24 has entered a plea of guilty to a charge that he did on the
25 29th of September, 1984 commit an assault on his girlfriend,
26 Betty Grandjambe, that caused her bodily harm when he threw
27 her down and kicked her until she became unconscious about

1 two o'clock in the morning. He, the accused, was drunk and
2 in striking and kicking his girlfriend caused her to have
3 swollen eyes and a sore forehead and soreness on the back
4 of her head. After a couple of days the girl was taken to
5 the hospital in Inuvik for further examination because of
6 the injuries that had occurred around her face and head.

7 The accused comes before the Court with one previous
8 conviction of mischief in February of 1984. He was dealt
9 with then by the Court in a way that most first offenders
10 are dealt with in the hope that their activities will in
11 future be such that they would have learned a lesson by
12 being placed on probation and having the sentence suspended.
13 The accused doesn't seem to have learned, but he still is
14 a young person of nineteen and has the opportunity of again
15 getting employment during the winter with a firm that he
16 worked with last year who soon will be providing him with
17 an opportunity for taking training in preparation for the
18 winter's work.

19 Ordinarily, the Courts feel that on assaults
20 causing bodily harm there is no alternative but to show
21 that the public and that society wishes to stop assaults
22 by following the direction of the Parliament of Canada
23 when it increased the penalties that were available to be
24 imposed on assaults and assaults causing bodily harm.

25 I have thought very seriously of putting the
26 accused in jail for a period of time, even though he is
27 young and even though he has only had one previous offence.

1 but instead of that I am going to give him another chance
2 to try and rehabilitate himself and realize that if he
3 were to appear before the Courts in future, he would have
4 to be dealt with more seriously and thereby hope that he
5 has learned something by his attendance today.

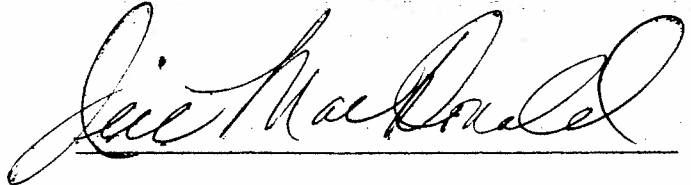
6 I am going to place the accused in jail for one
7 day, and I would be satisfied that his attendance in Court
8 today would be suitable for satisfying that requirement.
9 It will therefore be on his record as having now been
10 sentenced to jail so that Courts in the future will take that
11 into account. I am also going to place the accused on
12 probation for a period of eight months. I am going to require
13 that the accused report to the Probation Officer forthwith
14 and as directed. I am going to require that the accused
15 perform two hundred hours of community service work to the
16 satisfaction of the Probation Officer within a period of
17 six months.

18 Mr. Erutse, are you prepared to do two hundred
19 hours of completely good valuable work in place of any
20 kind of other punishment? All right. The Clerk will be
21 preparing the Probation Order, and you will be required to
22 sign it before you leave here. Because you are on probation
23 for that period of time you have to realize that to disobey
24 the law in any way or to disobey the probation order itself
25 is a criminal offence, and you can be charged with an offence
26 in doing so. And you could be called back to the Court
27 and also be charged with violation of the order. That makes

1 it doubly important to you to ensure that you stay out of
2 trouble.

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Certified a correct transcript,



Jill MacDonald
Court Reporter