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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

CLAYTON PATRICK BENOIT

Transcript of the oral sentencing delivered by His Honour Judge T.B. Davis, sitting at Inuvik, in the Northwest Territories, Monday, April 29th, A.D. 1985.

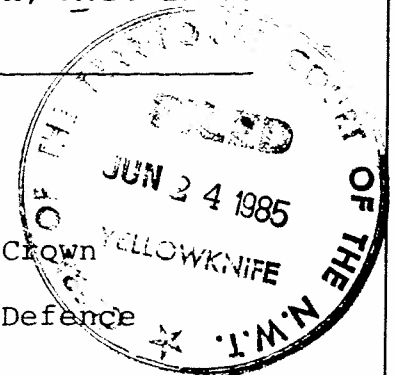
APPEARANCES:

MR. N. SHARKEY

Counsel for the Crown

MR. R. REID

Counsel for the Defence



1 THE COURT: Mr. Clayton Patrick Benoit, who is an eighteen
2 year old resident of Aklavik in the Northwest Territories,
3 has entered pleas of guilty to two charges, admitting that
4 on the 27th day of April, 1985 he did disfigure George Semple
5 thereby committing an aggravated assault and violated the
6 Criminal Code.

7 On that occasion the accused in the early
8 morning at approximately four-thirty had come upon George
9 Semple who was in the accused's bed after having been in the
10 Benoit residence and drinking with other persons and family.
11 The accused beat Mr. Semple to the extent that his face was
12 severely injured. Mr. Semple, who is somewhat retarded or
13 handicapped, had a broken nose and a broken jaw and a four-
14 inch cut over one eye which was swollen shut and was bleeding
15 and requires three week's hospitalization and will require
16 minor surgery to avoid disfiguring. The accused himself was
17 also drinking on that occasion and was intoxicated to the
18 extent that he remembers very little about this serious
19 action. But being intoxicated is only an explanation and is
20 not a state that avoids the responsibility for committing
21 criminal offences.

22 The accused also admitted that on the 27th
23 day of April at a later time, that being approximately ten-
24 forty-five in the morning, he was using a firearm in a careless
25 manner when he shot some shots from his residence and one
26 shot out the window of his residence. Fortunately, the
27 accused was arrested on that occasion while he was either

1 loading or unloading the rifle, which along with an expended
2 cartridge was then seized by the Police. On that occasion,
3 as well, the accused was still intoxicated and remembers only
4 a little bit of the circumstances.

5 Mr. Benoit is only eighteen, and I have to
6 take his age into account, because in sentencing when a person
7 is young there is always the hope of rehabilitation. But I
8 must also consider as the most important aspect of sentencing
9 the protection of the public. I note from the record of the
10 accused that although he had an assault causing bodily harm
11 offence in 1982, he has only had property related offences
12 on his record, which goes back to 1982 and continues
13 somewhat regularly until February of 1985. He has a number
14 of failing to comply with probation orders and recognizances,
15 as well as the property offences. In February of 1985 the
16 accused was sentenced to jail for three consecutive months
17 on three charges, one being theft of over Two hundred dollars
18 and mischief and of assault. I presume that the assault in
19 that instance was not nearly as serious as the assault before
20 the Court tonight, because he only got one month in jail.

21 I do feel that because of the change in the law
22 with regard to assaults, as is shown by the Parliament of
23 Canada when the penalties were increased, that the Courts
24 must obey that direction and consider longer terms in jail
25 for assault charges if they are serious and if a person has
26 a criminal record. Therefore, it is my intention to follow
27 what I believe the law is and what is required in this instance,

1 and that would be a period of time in jail. Crown counsel is
2 suggesting that I should consider up to a two-year term for
3 the accused. Taking into account his age, I am going to try
4 and stay a little bit less than that period of time with the
5 hope that he will during his period of incarceration make
6 efforts at his own rehabilitation and try to overcome what
7 he seems to recognize as a problem with alcohol. On the
8 second offence, that is, with the use of firearms, I have to
9 also note that in the Northwest Territories where firearms
10 are in such abundance and available so readily to so many
11 people because of their use on the land and by so many people
12 that we have a special requirement to ensure that people treat
13 firearms with safety and with respect. It, therefore, is a
14 serious matter when any person uses a firearm in a community
15 in a careless manner where it could do harm both to people
16 inside and outside residences, as in this instance.

17 Mr. Benoit, have you anything you wish to
18 say to the Court before I pass sentence on the matter?

19 MR. BENOIT: No.

20 THE COURT: All right. On the assault charge I am going
21 to impose a period of twelve months in jail. On the careless
22 use of the firearm I am going to increase the jail term by
23 an additional short period of time, but it is much, much less
24 than what I might otherwise consider for the seriousness of
25 the offence itself. But I am taking into account the fact
26 that Mr. Benoit is a young man still, and I am giving him the
27 benefit of his age, and I am going to impose a further three

1 months in jail on that charge with the hope that that in itself
2 will indicate to the accused and others that the use of fire-
3 arms is also considered seriously by the Court.

4 Madam Clerk, on the warrant for committal for
5 the accused I am going to indicate that the accused has
6 recognized that he has an alcohol problem and recommend that
7 if he wishes to participate in counselling services that
8 counselling shall be made available to him on that basis.

9 MR. SHARKEY: Sir, we withdraw the break and entry charge.

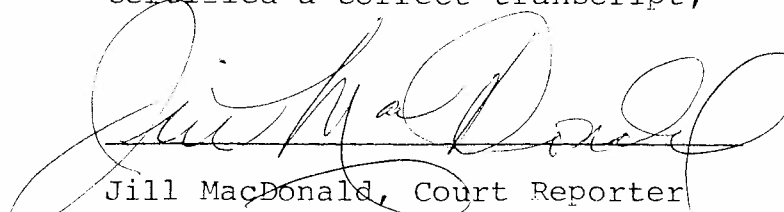
10 THE COURT: Thank you. Information 768 is withdrawn by
11 the Crown.

12 MR. SHARKEY: Given the record in these two incidents, I
13 ask that Your Honour make an order under Section 98(1) on the
14 245.2 charge.

15 THE COURT: Yes. I forgot to do so, but because of the
16 violence that was used in this matter in the use of a firearm
17 I will make an order directing that the accused be restricted
18 from having in his possession for a period of five years
19 any firearm or explosive substance or weapon.

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22 Certified a correct transcript,

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26 Jill MacDonald, Court Reporter