

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

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IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

PAUL ONALIK

Transcript of the Oral Sentencing Delivered by His Honour
Judge R.M. Bourassa, sitting at Frobisher Bay, in the
Northwest Territories, on Tuesday, March 5th, A.D. 1985.

APPEARANCES:

MS. NANCY BOILLAT: Counsel for the Crown.
MS. ELAINE BENGTS: Counsel for the Defence.
MS. J.K. HARRIGAN: Official Court Reporter.



PROSECUTOR'S INFORMATION SHEET



FICHE DE RENSEIGNEMENTS À L'USAGE DU PROCUREUR

Investigating Member(s) - (enquêteur(s)) MACNEILL	
PERSONAL INFORMATION - RENSEIGNEMENTS PERSONNELS	
Case/Court's Name - Nom de l'accusé PROBISHER BAY	D.O.B. - DN 60/12/28
Driver's License No. / Permis de conduire N°	
Address - Adresse House 120, Frobisher Bay	
DESCRIPTION OF VEHICLE(S) - DESCRIPTION DU(DES) VÉHICULE(S)	
Make - Marque	Year - Année
Colour - Couleur	License No. - Plaque d'im. N°
OFFENCE(S) - DÉLIT(S)	
Offence - Délit Forgery and Uttering a forged document	Section and Act - Article et loi S. 325 & 326(1)(a)
Date 24/06/21	Place - Lieu Frobisher Bay

PARTICULARS OF OFFENCE(S) (include any "et al's", additional charges)
DÉTAILS DES DÉLITS (inclure tout complice et autres accusations)

On the 21st day of June, 1984 the accused was acting in the capacity of a para-legal worker with Frobisher Bay Legal Services. At this time he was also acting as the agent of Isaki ANGOTAUTOK in collecting a sum of \$875.00 from an art dealer in Montreal.

On this date the accused recieved a cheque from the Eskimo Art Gallery drawn on Toronto Dominion account # 0040 0453154, in the amount of \$875.00. The cheque was made payable to Mr. ISAKI ANGOTAUTOK of Igloodlik.

Rather than forward the cheque to Mr. ANGOTAUTOK, the accused forged the payees name then attended to the Royal Bank in Frobisher and then in the presence of a teller signed his own name and savings account number on the back. Onalik then accepted cash and departed.

A short time later the accused went absent without leave from Legal Services and was soon terminated thereafter.

In August, Mr. Angotautok contacted Legal Services to advise that he had not recieved the expected cheque. After an internal investigation by Legal Services, the RCMP were advised. (Prior to police notification, Onalik was given several opportunities to attend to their office and rectify the matter, however he declined to do so.

On Dec. 4th the accused was arrested, given rights and warning and lodged in cells. While declining to give a statement, Onalik verbally admitted to the offence claiming that needed the money for family matters

Member's SIGNATURE ou Membre

Date

WITNESSES (INCLUDING POLICE) - TÉMOINS (Y COMPRIS LES AGENTS DE LA PAIX)

NAME - NOMS	ADDRESS - ADRESSES

COURT INFORMATION - RENSEIGNEMENTS JUDICIAIRES

In the and Weather Condition / Etat de la route et conditions météorologiques	C.P.C. Check - Vérification de la C.P.C.	Value of Property Involved / Valeur des biens en cause
Name of Crown Attorney Contacted - Nom de l'avocat de la Couronne appelé	Name of Prosecutor - Nom du Procureur	

ADJUDICATION - JUGEMENT

Arrested - Arrêté	Member's Witnessing Conviction - Témoins de la condamnation
Prosecutor - Procureur	Informal Counsel - Avocat de la défense
Costs Total - Coût des procès	Fine or Total - Amende ou total
<input type="checkbox"/> Guilty / <input type="checkbox"/> Not Guilty / <input type="checkbox"/> Dismissed / <input type="checkbox"/>	Fine - Amende Costs - Coût In Default - Absence de paiement
Licence Suspended / Permis de conduire suspendu Yes - Oui <input type="checkbox"/> No - Non <input type="checkbox"/>	Conditions

Det./Branch - Dct./Bureau FROBISHER BAY		Investigating Member(s) - Enquêteur(s) MACNEILL	
PERSONAL INFORMATION - RENSEIGNEMENTS PERSONNELS			
Defendant's Name - Nom de l'accusé PAUL ONALIK		D.O.B. - DN 60/12/28	Driver's Licence No. / Permis de conduire N°
Address - Adresse Hse. 300-C Frobisher Bay			
DESCRIPTION OF VEHICLE(S) - DESCRIPTION DU(DES) VÉHICULE(S)			
Make - Marque	Year - Année	Colour - Couleur	Licence No. - Plaque d'imm. N°
OFFENCE(S) - DÉLIT(S)			
Offence - Délit Theft under X 2		Section and Act - Article et Loi 294(b) C.C.	
Date 84/04/09 84/05/15	Time - Heure	Place - Lieu Frobisher Bay	
PARTICULARS OF OFFENCE(S) (Include any "et al's", additional charges) DÉTAILS DU(DES) DÉLIT(S) (inclure tout complice et autres accusations)			

During the early months of 1984 the accused was employed as a para-legal court worker for Maliganik Tukisiinavik in Frobisher Bay.

During this time Onalik exchanged correspondence with a Coral Harbour resident (Paul KATALUK) who was requesting assistance regarding his divorce proceedings. In March of 84 ONALIK and KATALUK agreed that Maliganiks legal fee of \$800.00 could be paid in bi-weekly instalments. Furthermore in early April of 1984 KATALUK phoned ONALIK to advise that he would be forwarding a deposit.

KATALUK then forwarded a Hudsons Bay Co. draft for \$100.00 to Paul ONALIK in Frobisher Bay on April 9th and a second draft was forwarded on May 15th in the amount of \$50.00. ONALIK cashed both these drafts and failed to turn the money over to Maliganik as per KATALUKS direction.

In January of 1985 Mr. KATALUK phoned Maliganik to inquire as to the progress of his divorce and further advised that he had sent a deposit of \$150.00 early in 1984. Maliganik has no record of any such deposit being recieved from KATALUK.

ONALIK was dismissed from Maliganik in Aug. 1984 and has since been convicted of a theft in connection with his duties at the legal aid office.

On 85/02/25 ONALIK was arrested, given rights and warning. He admitted recieving the funds from KATALUK however claimed that they were sent so that ONALIK could do some shopping for KATALUK.

ONALIK released and processed for court on Mar. 4th.

Member's SIGNATURE du Membre: *[Signature]*
D. MACNEILL 85/2/25

WITNESSES (INCLUDING POLICE) - TÉMOINS (Y COMPRIS LES AGENTS DE LA PAIX)	
NAME - NOMS	ADDRESS - ADRESSES

COURT INFORMATION - RENSEIGNEMENTS JUDICIAIRES			
Traffic and Weather Conditions / Etat des routes et conditions météorologiques		C.P.I.C. Check - Vérification auprès du C.I.P.C.	Value of Property Involved / Valeur des biens en cause
Name of Crown Attorney Contacted - Nom du Procureur de la Couronne approché		Name of Prosecutor - Nom du Procureur	
ADJUDICATION - JUGEMENT			
Remands - Renvois		Member Witnessing Conviction - Témoins de la condamnation	
Prosecutor - Procureur		Defence Counsel - Avocat de la Défense	
Date of Trial - Date du procès		Place of Trial - Lieu du procès	
Plea - Aveu Guilty / De culpabilité <input type="checkbox"/> Not Guilty / D'innocence <input type="checkbox"/>	Fine - Amende	Costs - Frais	In Default - Non-comparution
Time to Pay - Délai de paiement	Licence Suspended / Permis de conduire suspendu Yes - Oui <input type="checkbox"/> No - Non <input type="checkbox"/>	Conditions	

1 MS. BOILLAT: Sir, there is before the Court two
2 informations on Section 294(b). I seek to amend the
3 information relating to the 9th of April, 1984 to read as
4 follows: "Between the 9th day of April, A.D. 1984 and the
5 15th day of May, A.D. 1984."

6 THE COURT: Does the Defence object?

7 MS. BENGTS: No objection, Your Honour.

8 THE COURT: All right. I'll read the information
9 as amended.

10 Paul Onalik, is charged between the 9th day of April,
11 A.D. 1984 and the 15th day of May, A.D. 1984, at or near the
12 Town of Frobisher Bay in the Northwest Territories, did steal
13 money, the property of Maliiganik Tukisiiniakvik, which I
14 believe is misspelled?

15 MS. BOILLAT: Yes.

16 THE COURT: Of a value not exceeding \$200,
17 contrary to Section 294(b) of the Criminal Code.

18 Are you asking that the misspelling of Tukisiiniakvik be
19 corrected?

20 MS. BOILLAT: Yes.

21 To read S-I, sir, as opposed to S-H.

22 THE COURT: The Crown has elected to proceed by
23 Indictment.

24 Is your client ready to plead?

25 MS. BENGTS: Yes, sir.

26 THE COURT: How do you plead to the charge, Mr.
27 Onalik; guilty or not guilty?



1 THE ACCUSED:

Guilty.

2 THE COURT:

And the remaining two informations?

3 MS. BOILLAT:

Perhaps we could deal with those one

4 by --

5 THE COURT:

Pardon?

6 MS. BOILLAT:

Could we deal with both, Section 326

7 and the other Section, 294(b) once the convictions are

8 entered, sir?

9 THE COURT:

I have accepted his plea of Guilty.

10 If you want to give me the facts.

11 MS. BOILLAT:

Yes, sir.

12 With regards to the Section 325, sir, we have prepared
13 for the benefit of the Court, sir, an Agreed Statement of
14 Facts, which I propose to read at this time.

15 MS. BENGTS:

For the record, the Statement is

16 agreed to.

17 THE COURT:

Thank you. I'll take a moment to

18 read it.

19 This is with respect to the 294(b) charge?

20 MS. BOILLAT:

No, sir, in regards to Section 325.

21 THE COURT:

That matter is for sentencing today?

22 MS. BOILLAT:

That's correct.

23 THE COURT:

Go ahead.

24 MS. BOILLAT:

25 Sir, for the record, I propose to
26 read the Statement of Facts, if that is in agreement.

27 THE COURT:

Pardon?

MS. BOILLAT:

For the record, I propose to read the



1 Agreed Statement of Facts.

2 THE COURT: Go ahead.

3 MS. BOILLAT: The accused, Paul Onalik was at all
4 material times employed as a court worker or paralegal case
5 worker with Maliiganik at the Frobisher Bay legal services
6 offices. One Isaki Angotautok had come to Maliiganik offices
7 to seek legal assistance in collecting the sum of \$875 owed
8 to him by an art dealer in Montreal for one or more soapstone
9 carvings.

10 The accused, Paul Onalik, handled the case for Mr.
11 Angotautok, and in the course of his negotiations received
12 from him a photograph of the carving in question, which Mr.
13 Onalik mailed to the art gallery.

14 Subsequently, the Eskimo Art Gallery sent to Maliiganik
15 office a cheque in the sum of \$875 drawn in favour of Mr.
16 Angotautok.

17 The accused, Mr. Onalik, photocopied the cover letter
18 from the Eskimo Art Gallery and sent it on to Mr. Angotautok
19 in Igloolik.

20 The accused then took the cheque and forged the name of
21 the payee, Mr. Angotautok, on the reverse of the cheque, and
22 then, in the presence of a teller at the Royal Bank in
23 Frobisher Bay signed his own name on the reverse of the
24 cheque, as well.

25 Mr. Onalik then converted the \$875 to his own use.

26 Shortly thereafter the accused was absent without leave
27 from the Maliiganik offices. Mr. Angotautok contacted the

1 Legal Services office to advise that he had received a copy of
2 the letter but not the cheque.

3 Another employee of Maliiganik contacted the accused,
4 Onalik, about the missing cheque and Mr. Onalik replied that
5 he had mailed the cheque and the letter to Mr. Angotautok,
6 but that he had not made a copy for the file.

7 By this time Maliiganik had in its possession a copy of
8 the cheque from the Royal Bank showing the forged signature
9 of Mr. Angotautok and the endorsement of Mr. Onalik.

10 The accused was confronted with this information and
11 declined to make any further comment, other than that he
12 wished to speak to the lawyer who acts as executive director
13 for Maliiganik.

14 Two subsequent double-registered letters were sent to the
15 accused on September the 7th and the 20th, 1984, respectively,
16 asking that he come to the offices and talk about the matter.
17 They were both received by Paul Onalik but were unanswered.

18 Mr. Angotautok came to the offices of Maliiganik for
19 purposes of legal assistance. The relationship with Paul
20 Onalik is or was purely for the purposes of obtaining the
21 \$875. There was no other relationship between the victim and
22 Mr. Onalik.

23 MS. BENGTS: Those facts are admitted, Your Honour.

24 THE COURT: With respect to sentence?

25 MS. BOILLAT: In regards to facts on the other
26 charge, sir --

27 THE COURT: I'm sorry. This is a theft under?



1 (inaudible)?

2 MS. BOILLAT: That's correct, sir.

3 During the early months in 1984 Mr. Onalik, as mentioned
4 previously, was employed as a paralegal Court worker for
5 Maliiganik.

6 During his time here between the -- more particularly,
7 between the 9th of April and the 15th of May, 1984, he
8 exchanged correspondence with a Coral Harbour resident, a Mr.
9 Paul Kataluk, who was requesting assistance regarding his
10 divorce proceedings.

11 It was in March of 1984 that Mr. Onalik and Mr. Kataluk
12 agreed that the legal fee of \$800 could be paid in biweekly
13 installments, and it was in early April, 1984 that Mr. Kataluk
14 phoned Mr. Onalik to advise that he would be forwarding a
15 deposit.

16 It was on April 9th that Mr. Kataluk forwarded a Hudson's
17 Bay Company draft of \$100 to Mr. Paul Onalik.

18 A second amount was forwarded on May 15th in the amount
19 of \$50. This money was clearly, as I mentioned, for the
20 payment of legal fees in relation to the divorce proceedings.

21 Mr. Onalik cashed both of these amounts and did not
22 deposit the money with Maliiganik as per the client's
23 instructions.

24 It was on January, 1985 that Mr. Kataluk phoned
25 Maliiganik to inquire in regards to what was happening in
26 regards to his divorce, advising that he had sent \$150.

27 No record in Maliiganik's books indicated any money



1 received from Mr. Kataluk. Mr. Onalik, therefore, kept the
2 money.

3 Maliiganik is presently out the \$875 in relation to the
4 forgery charge, and also, the total of \$150.

5 THE COURT: Are you telling me that Maliiganik
6 paid the \$800 to --

7 MS. BOILLAT: In regards to the \$875 --

8 THE COURT: To Angotautok?

9 MS. BOILLAT: That's correct, sir.

10 THE COURT: That money was paid to Mr. Angotautok?

11 MS. BOILLAT: That's correct.

12 THE COURT: With respect to the \$150? I'm talking
13 to Miss --

14 MS. BOILLAT: That's correct, sir.

15 With regards to the \$150, no, they have not --

16 THE COURT: So it's the --

17 MS. BOILLAT: They would have paid the \$875.

18 THE COURT: It's the individual that's out of
19 pocket on that one?

20 MS. BOILLAT: Mr. Kataluk would presently be out
21 \$150.

22 THE COURT: Are those facts admitted as true, Ms.
23 Bengts?

24 MS. BENGTS: Yes, they are, Your Honour.

25 THE COURT: Is there a presentence report filed?

26 MS. BOILLAT: Yes, sir.

27 THE COURT: All right. The agreed Statement of



1 Facts should be Exhibit 1 on the 325 matter.

2 The Presentence Report will be Exhibit 2 on that one.
3 Exhibit 1, I guess, on the 294(b).

4 I should point out to counsel that I was asked by the
5 probation officer to include the following words on page four
6 of the Presentence Report.

7 At the bottom it says, "When he can he likes to camp with
8 his mother and father."

9 MS. BOILLAT: Thank you, sir.

10 THE COURT: Your submission on sentence, then,

11 Ms. Boillat?

12 MS. BOILLAT: Yes, sir.

13 With regards to sentencing, sir, Mr. Onalik is a first
14 offender. As I've mentioned earlier today it's indeed
15 difficult when Court is called to sentence a first offender.

16 However, sir, there are certain general principles that
17 have been established by this particular Court and Courts, in
18 general; that being that when an accused is in the position
19 of trust, and when there is a breach of trust with regards to
20 the offences that he commits, that, as a general rule, sir,
21 unless there are extremely unusual circumstances or
22 exceptional circumstances the Courts impose a term of
23 incarceration.

24 The reasons the Courts, Your Honour, have consistently
25 followed this rule is essentially one of deterrence, to bring
26 home specifically to the accused in question the notion of
27 specific deterrence and to the community at large, that of



1 general deterrence; that a person in that position has certain
2 responsibilities, and if that person fails to live up to
3 responsibilities there will be serious consequences.

4 Your Honour, I wish to point out certain factors which I
5 submit are aggravating. Firstly, sir, there is always the
6 question in this type of offence of the amount of money
7 involved.

8 I submit, sir, that it is a negligible amount. The
9 total of \$875 was used for Mr. Onalik's own purposes. He
10 converted it to his use, as well as the \$150, totalling
11 around \$1,000, sir.

12 The other aggravating factor, sir, is though this
13 occurred in a general space of between the 9th of April and
14 the 21st of June, it is not an isolated incident. There's
15 been several similar offences before the Court. I submit,
16 sir, that that is also aggravating. There's the question,
17 sir, of premeditation. I submit that with regards
18 particularly to the forgery, as well as the other theft,
19 that's not a on-the-spur-of-the-moment act by the accused.
20 There is no evidence that he was drunk or in dire need of
21 money. I submit that there is, indeed, some indication of
22 thought put into it by Mr. Onalik.

23 As well, sir, in the Agreed Statement of Facts I submit
24 -- note the difficulty Mr. Onalik's employer had in contacting
25 him to try and find out what actually occurred. He declined
26 to give any information. He was contacted on numerous
27 occasions. He was sent registered letters without any



1 response.

2 THE COURT: He has a right to remain silent. Did
3 he not do anything more than to exercise that right?

4 MS. BOILLAT: It could certainly be determined in
5 that fashion.

6 Perhaps, sir, the most troubling aspect, I submit, of
7 both of these offences is the perception in Frobisher Bay of
8 what occurred. Mr. Onalik was known as working for Maliiganik.
9 He was seen by numerous people in the role as Court worker.
10 He was undoubtedly trusted by numerous of his clients, and he
11 acted in this fashion. Though Mr. Onalik is not a lawyer,
12 sir, and I think there can be some type of analogy drawn
13 between situations that occurred involving trust funds and
14 legal advice to clients, though it's far from being a perfect
15 analogy, Your Honour.

16 I submit, sir, because of the general principle of law
17 in this regard, and there's the breach of trust, even though
18 Mr. Onalik does not have a previous criminal record and
19 because I submit there are no exceptional circumstances before
20 the Court today that Your Honour has no alternative, again,
21 but to incarcerate Mr. Onalik to a period of incarceration.
22 As well, Your Honour, I submit that restitution should be
23 made to the victims on both matters.

24 THE COURT: Ms. Bengts, on behalf of the accused?

25 MS. BENGTS: Yes, Your Honour.

26 I would like to submit at the outset that Mr. Onalik is
27 extremely ashamed about these occurrences. As can be seen



1 from the Presentence Report, he is well-respected in the town
2 of Frobisher Bay. He seems to be a good family man. He would
3 like me to advise the Court that he denies that he has
4 ever taken money in the past, as indicated in the Report.

5 THE COURT: Well, that's referred to in the
6 Probation Report, and I think the Court has to be extremely
7 wary of confidential sources, and I'm basically disregarding
8 it.

9 MS. BENGTS: Thank you.

10 THE COURT: Well, I am disregarding it.

11 MS. BENGTS: Thank you, Your Honour. That was to
12 be my submission.

13 He tells me that with regard to the initial offence,
14 that is the \$875 cheque, he tells me at that time that he was
15 under some financial pressure, although they weren't great
16 financial pressures.

17 The cheque was sent to him. He advises that he was
18 thinking at the time that he could take the money. He was in
19 between paycheques -- and pay the money back with his
20 paycheque. It did not happen that way. I suppose it became
21 too easy to do it.

22 He admits that he was in a position of much
23 responsibility, and that he let a lot of people down. He
24 suggests that perhaps he was given too much responsibility,
25 and that he just could not handle it. He has, up until this
26 point -- he has been -- or excuse me -- up until the point he
27 was dismissed from Maliiganik offices he was very steadily



1 employed in good jobs, responsible jobs. He's worked for
2 Health and Welfare as an assistant regional nutritionist,
3 teaching those people in the communities about nutrition, and
4 for that he did have to take some rather extensive courses;
5 three courses at Fort Smith, Ottawa and Yellowknife. He's
6 taken courses in all three places. He's been employed as a
7 waiter in various places in between other jobs. He worked for
8 the Inuit Parasot (phonetics) in Ottawa as an assistant
9 editor on a newspaper for three months as a summer job while
10 he was going to school.

11 During another summer he took seamanship basic training
12 with the Coast Guard.

13 Your Honour, Mr. Onalik has a young family. He and his
14 wife just had, not too long ago, a child. As the Presentence
15 Report indicates, he seems to be a very dedicated family man.
16 He does take part in sports in Frobisher Bay, and I understand
17 that although he doesn't do this as much any more as his
18 family takes up most of his time, that he has been involved
19 in the organizational aspects of those sports within the
20 community.

21 He is most willing and, in fact, wishes to pay
22 restitution to those people who have been wronged by his
23 actions. As I say, it's something that has affected his life,
24 and that his family is very disappointed with him, and that
25 his family is important to him, and the way his family thinks
26 is important.

27 His abilities to obtain further employment have been



1 severely restricted. He advises that he feels that no
2 personal deterrence is required. He feels that he has learned
3 his lesson simply from the fact of having to go through the
4 Courts with this.

5 As I say, he is very ashamed of the whole episode. I
6 would refer the Court to a recent case decided in the
7 Northwest Territories in a similar manner, that of R. versus
8 Magnum (phonetics).

9 Mr. Magnum was originally sentenced on a similar
10 situation. It was a breach-of-trust situation where he was
11 employed by an insurance company and took monies from the
12 insurance company that were forwarded to him by customers.
13 In that particular case there were a total of \$40,000 which
14 were taken. The original sentence in that matter was a
15 suspended sentence. On appeal that was increased to six
16 months and a compensation order is in effect that he has to
17 pay back the \$40,000.

18 The Court of Appeal in that decision based that decision
19 mostly on the necessity for public deterrence.

20 Your Honour, I would submit that this is a similar case,
21 that any sentence imposed would be for the purpose in the
22 main of public deterrence, and I would suggest that, although
23 this is a serious offence, that in the circumstance his
24 standing in the community, and what he has gone through since
25 these offences have been brought to the Court's attention,
26 that this is a proper case for a fine and probation.

27 However, Your Honour, if, in the alternative, the Court



1 is considering a term of incarceration, I would ask that the
2 Court consider that it be less than three months, such that
3 it can be served intermittently. Mr. Onalik does have a
4 young family. He has just recently obtained employment as a
5 waiter. In fact, the employment is so recent that he does
6 not yet know his set hours. However, he does wish to serve
7 intermittent time, if that is the Court's decision, and I
8 submit that any time spent could be properly spent on
9 weekends.

10 THE COURT: Thank you, Ms. Bengts.

11 Well, it's not an easy or happy task to have to sentence
12 Paul Onalik. Of all the people that come before the Court
13 Mr. Onalik is an exception. He's bright, intelligent, well-
14 educated. He has a positive past, and up until his
15 involvement with these events his future was unlimited.

16 That kind of person is needed in this community,
17 perhaps more so than some other communities.

18 Paul Onalik was employed as a paralegal with Maliiganik
19 Tukisiiniakvik. The Maliiganik Tukisiiniakvik, as I
20 understand it, is incorporated, and is so organized to
21 provide a service, and that is to provide legal aid, legal
22 advice, legal services, to educate and generally expose
23 people on Baffin Island, and particularly, Frobisher Bay,
24 to the workings of the law and to make services available
25 that, but for its existence here, which was commenced a
26 few years ago, were not generally available. I think it's
27 obvious that they perform a vital function. In all of the



1 fields that they operate in, without the assistance of
2 Maliiganik Tukisiiniakvik, and the lawyers that are
3 employed by them, I think that people on Baffin Island, and
4 particularly, Frobisher Bay, would be a lot more poorly
5 served than they are. They assist the Court and they
6 assist the people. It's obvious to me, as I'm sure it is to
7 Counsel, that anything that takes away from their credibility
8 or reputation is, to a degree, an attack, as it were, on the
9 system of justice.

10 The Court certainly endorses the work of Maliiganik
11 Tukisiiniakvik and supports it. It seems to me if people
12 are going to look to Maliiganik Tukisiiniakvik with trust,
13 and with confidence, that they have a very large obligation
14 to act in a way that simply is without criticism.

15 Here, this accused was an employee of Maliiganik
16 Tukisiiniakvik in which he acted in the capacity of a
17 paralegal. In his capacity acting on behalf of, and
18 virtually as an agent for, a lawyer, for an organization
19 devoted to the provision of legal services, he enters into
20 arrangements with strangers who have come to Maliiganik
21 Tukisiiniakvik because of its reputation; because of its
22 availability. Those people obviously trust Maliiganik
23 Tukisiiniakvik. The accused has taken their money and
24 appropriated it to his own pocket. I agree with Crown that
25 that is certainly a trust situation and may, in fact, make
26 the situation more aggravating than where an employee of
27 the Bay or a bank absconds with a few hundred dollars.

28 The Courts, and those people involved with the Courts,



1 must not only be, but they must seem to be, beyond reproach
2 in terms of living day to day under the rules of law. To
3 answer this offence in any other way than a noticeable
4 sentence, I think, would detract from that. People are going
5 to have to understand that when they aspire to high office,
6 and when they aspire to responsibility, that if they choose
7 to abuse that office and that responsibility there will be
8 harsh penalties and consequences, especially when trust with
9 respect to the process of law is involved, as it was
10 intimately here.

11 People involved in the administration of justice and the
12 administration and operation of law must simply be beyond
13 reproach. People expect to trust them, and that trust is a
14 critical element.

15 If this offence is answered in a way that was perceived
16 by the general public to be a tap on the wrist, I believe it
17 will be detrimental to the continued existence and growth of
18 Miliiganik Tukisiiniakvik, and I think it will be
19 detrimental, generally, to the administration of the laws
20 and the people that are associated with it.

21 It's a very serious offence. Generally, I note that
22 there are two offences we are dealing with, totalling
23 approximately \$1,000. I note in aggravation, as I've already
24 referred to, that the people involved were dealing with this
25 accused in his capacity as a representative of the legal
26 services organization, Miliiganik Tukisiiniakvik. They were
27 dealing with him in his capacity as a paralegal, and just
28 because he had that title and that position he was trusted.

1 That's not to say that the accused can be painted
2 totally black. Obviously, that's not the case. There is a
3 positive Presentence Report that has been filed. I do note
4 as soon as the information was laid, dealing with the Section
5 325 matter, the accused appeared in Court and elected trial by
6 Territorial Court Judge and indicated a plea of guilty. It
7 was only at the urging of the Court that he seek the advice
8 of counsel and that a PSR was prepared. I am told, and I
9 accept, that personal deterrence or individual deterrence is
10 not required. He has suffered shame and exhibits remorse
11 with respect to the offences. I can accept that. I always
12 question, however, that if people are so remorseful, why is
13 it that they must wait for an order of the Court to pay
14 anything on account of restitution?

15 In any event, as I say, it's a difficult matter because
16 the man has so much going for him and -- could have had
17 such a positive impact on the community that needs this
18 kind of person, and more like him. I don't think a fine
19 and probation are called for. I have decidedly come
20 to the conclusion that there must be a jail sentence. I have
21 in mind a number of other cases where a trust situation was
22 involved principally with postmistresses or bank clerks, and
23 in each case it is almost inevitable that a jail sentence is
24 imposed. I take this as even more aggravating than even most
25 cases. The fact that the law is involved here, that part of
26 the legal process is involved, and the breach of trust refers
27 to that legal process. And to me, that makes the situation



1 even more aggravated than if we were dealing with a bank
2 clerk who had absconded a similar amount.

3 Notwithstanding that, obviously I should not impose a
4 sentence that is going to crush the accused. The sooner he
5 can put this behind him and rebuild his life and rebuild the
6 trust that he had entertained in the past, the better it is
7 for him.

8 He has a long road ahead of him. It's going to take a
9 long time before he can rebuild the trust and confidence that
10 was imposed in him by some people.

11 A further career in the legal field may be forever
12 foreclosed to him, but if he's as strong and as resilient and
13 as capable as the Presentence Report indicates, that with
14 hard work this will soon fade, and he can commence his life
15 anew.

16 I'm taking into account that he has no previous criminal
17 record and that a sentence ought to be, under all of the
18 circumstances, as lenient as possible. I dare say that, had
19 the accused been convicted of break, enter and theft, that he
20 would have received a suspended sentence. However, as I said,
21 that is not the case, and the factors involved here mitigate
22 against any suspended sentence or fine.

23 I'm taking into account, as I said earlier, that he's
24 pleaded guilty to both of these charges. I'm taking into
25 account the totality to a degree. Although the offences did
26 not occur at the same time, they may, to some degree,
27 reflect a continuing course of conduct.



1 Stand up, please, Mr. Onalik. On the charge contrary to
2 Section 325 of the Criminal Code I sentence you to three
3 months' imprisonment.

4 On the charge of theft not in excess of \$200, two
5 months' imprisonment, consecutive.

6 MS. BOILLAT: Those other charges are to be
7 withdrawn.

8 THE COURT: The charges will be withdrawn as
9 requested by the Crown.

10 (CONCLUDED)
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I, Judy K. Harrigan, Official Court Reporter, hereby certify that I attended the above Oral Sentencing and took faithful and accurate shorthand notes and the foregoing is a true and accurate transcript of my shorthand notes to the best of my skill and ability.

Dated at the City of Calgary, Province of Alberta, this 12th day of March, A.D. 1985.



Judy K. Harrigan
Official Court Reporter

His Honour Judge
R.M. Bourassa

JKH/mjp



LIST OF EXHIBITS

1. STATEMENT OF FACTS.
2. PRESENTENCE REPORT.