

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

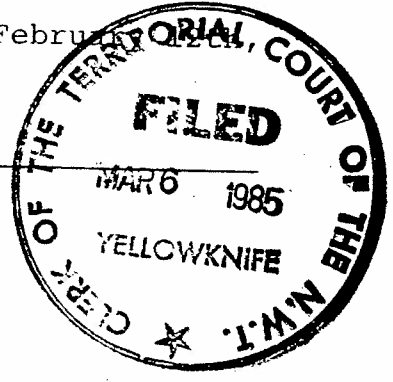
VS

ELVIS TAMBOUR

---

Transcript of the Oral Sentencing Delivered by His Honour Judge T. B. Davis, sitting at Yellowknife in the Northwest Territories, on Tuesday, February 12, 1985. A.D., 1985.

---



APPEARANCES:

MS. N. BOILLAT: Counsel for the Crown

MS. L. TARRAS: Counsel for the Defence

1 THE COURT:

2 Mr. Elvis Tambour admits that at Hay River on  
3 the 14th of September, 1984, he knowingly made some false  
4 cheques and benefited by cashing a cheque in the amount of  
5 \$326.20 to himself, and subsequently by being involved  
6 with the cashing of a cheque that he had forged for \$240.20  
7 of which he received \$120. He therefore violated Section  
8 325 of the Criminal Code by being involved with forging  
9 these documents.

10 The accused admits that the cheques had been cheques  
11 from the Dene Band to Tu Cho Gha General Contracting Limited,  
12 and that he had known who the officers were and forged  
13 the signatures of the officers of that company because  
14 he had been an employee of the Dene Band and had special  
15 information relating to the circumstances.

16 The accused appears before the court with a long  
17 record dating back from 1976 until 1982, and appears to  
18 have been sentenced to serve eighteen months in jail in  
19 October of 1982, so I presume that the accused would not  
20 have been out of jail for a substantial length of time  
21 before committing these two offences.

22 Defence counsel has indicated as well that the accused  
23 admits to a drinking problem that he is trying to do  
24 something about by attending A.A. meetings and that at the  
25 time of these offences, he probably was induced to look for  
26 money because of his drinking problem.

27 He is an intelligent young man of twenty-seven years  
of age with a grade twelve education and a person who has

1 while in jail been upgrading himself by taking courses from  
2 university.

3 Forgery cases are always difficult to deal with  
4 because it is impossible to know what would be a suitable  
5 sentence to be imposed to protect the public against  
6 offences of this nature and to deter the accused and others  
7 from committing similar offences. But in the case  
8 submitted to me, Judge Tallis in 1977 in the Supreme Court  
9 of the Northwest Territories indicates that he felt that  
10 persons in the position of an accused, that is, a person  
11 who has information relating to bank accounts or business  
12 operations, should be put on notice that if they were to  
13 break their trust to the members of their own community,  
14 and therefore break any kind of a special trust that  
15 exists in any way between them, between the accused and  
16 their employers or other persons with whom they have special  
17 information, they can expect to receive punishment for  
18 having done so.

19 Mr. Justice Tallis also refers to the various principles  
20 of sentencing and the factors that must be taken into  
21 account in determining an appropriate sentence when he  
22 reviews those items referred to by Defence counsel. That is,  
23 the degree of premeditation involved, and in this instance,  
24 of course, the accused was fully aware of what was going  
25 on because he used his intelligence and premeditated the  
26 offence by issuing cheques.

27 The circumstances surrounding the commission of the

1 offence itself, the manner in which it was committed, and  
2 if any violence is involved. In this instance, of course,  
3 there was no violence and it was a straight forward white  
4 collar type of offence, but the gravity of the offence  
5 must be considered and the Parliament of Canada has  
6 indicated that the offence is a serious matter.

7 The accused in this instance had elected to be tried  
8 by a magistrate, but it is still an indictable matter and  
9 classified as serious by the Parliament of Canada. Courts  
10 consider the attitude of the offender subsequent to the offence,  
11 and in this instance it appears that even with a good  
12 attitude he has a problem relating to alcohol. The  
13 previous criminal record of the accused also must be  
14 considered as well as the age, mode of life, character  
15 and the personality of the offender, and if there were a  
16 presentence report the court would consider the recommendations  
17 made therein. However, it is probably unnecessary to have  
18 a presentence report on the accused because of the  
19 existing criminal record, and I think I have no alternative  
20 but to try to protect the public against offences of  
21 this nature by imposing jail as suggested by Crown counsel,  
22 and probably partially acknowledged by Defence at  
23 this time.

24 The length of the jail term, therefore, is something  
25 that I must consider, and I do refer to the case as presented  
26 by Mr. Justice Tallis who gave the accused in that case, who  
27 was a young man, six months in jail even though he had only

1 one offence under the Criminal Code. In the Lafferty case  
2 referred to by counsel, and issued on the 27th of June,  
3 1977, Lafferty had one child who was three months of age.  
4 He also had a grade twelve education and had taken additional  
5 vocational training subsequent to his grade twelve. Justice  
6 Tallis said in the Lafferty case that he realized the  
7 accused was a young man and that hopefully he will have  
8 learned his lesson as a result of the charges of which he  
9 was convicted before the court.

10 It would seem to me that probably to a great extent  
11 I am bound by the finding of the Supreme Court in the  
12 case referred to me, and under those circumstances, I do  
13 not see where the accused should be dealt with any more  
14 lightly than Mr. Lafferty had been. I hope that that will  
15 indicate the seriousness of the offence to the accused and  
16 others.

17 Therefore, I will impose on the first offence, six  
18 months in jail. On the second offence, I am going to  
19 impose an additional one month in jail, and that will run  
20 consecutively. The second term is being imposed at this  
21 time to indicate to the accused the seriousness of the  
22 matter, and it is such a short period only because I do  
23 not want the accused to remain in jail forever if he has the  
24 intention of improving his situation as pointed out by  
25 counsel, so he is getting the benefit of just an extra  
26 month on the second offence.

27 MS. TARRAS: Thank you, sir.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

MS. BOILLAT: Thank you, Your Honour.

(AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED.)

Certified a correct transcript,

*Laurie Ann Young*

Laurie Ann Young

Court Reporter