IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

SIMON ADAMS

Transcript of the Oral Reasons for Judgment Delivered by His Honour Judge R. M. Bourassa, sitting at Tuktoyaktuk in the Northwest Territories, on Wednesday, September 18th, A.D., 1985.

APPEARANCES:

MS. L. WALL:

Counsel for the Crown

MR. R. REID:

Counsel for the D#

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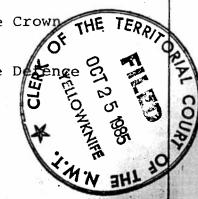
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THE COURT: Well, I will deal with the conflict in the evidence first. I have heard the evidence from the three Crown witnesses. I have evidence of people who are involved in the offence as spectators and victims as it were.

All three were sober.

The evidence of Mr. Thrasher who was present throughout is compelling and convincing. He was a good witness.

An effort was made perhaps to compromise his testimony by suggesting there is bad blood between he and the accused. I found Mr. Thrasher fair, and I think he bent over backwards to relate what happened without trying to color it in any way. Listening to him, I am certain he could have made it sound a lot worse for the accused than what he did. He indicates that the accused came in. He heard the accused in the house. He woke up. He heard Simon come in the living room where he had been sleeping with his wife and four children. The accused was there with a rifle and said that he was fed up and was swearing and was expressing anger, demanding to know where his common-law wife was.

At that point his common-law wife came out of the bathroom where apparently she had been when he arrived earlier unseen by Mr. Thrasher. As she came out he pointed the rifle at her.

Paula Gruben says that as she came out she was made aware of the fact that there was a rifle pointed at her. She was quite honest. She said she didn't see the rifle

pointed at her, but when she was made aware of that fact, she went back into the bathroom. When she first went into the bathroom she saw the accused talking with Mr. Thrasher and saw him with the rifle in his arm. I believe in cross-examination when the witness said "he didn't point the gun at me," she was speaking about when she first saw him. When she went into the bathroom he was standing sideways to her. She was not asked if that was when she came out the second time, and she was made aware of the fact that there was a gun pointed at her.

The evidence of Shirley Thrasher was she was frightened She held her head down so as to try and blot out what was occurring, but what she heard and what Paula Gruben heard and saw ties in and confirms the evidence of Lawrence Thrasher.

I find no conflict in the evidence whatsoever. I am well aware of the Chomenko position as well as Pelly. There was intent.

I am satisfied that the accused on the very facts of the case, and there is nothing to indicate otherwise, exposed the others to a significant danger. I have no evidence which would compromise the Crown's case on that point of intent. I have no evidence that would suggest a lack of intent.

I am satisfied that the Crown has proven its case both with respect to the facts and the factual elements required, and with respect to intent. From the evidence

before me I think it is clear what the accused's intent was at that time. The accused will be convicted of the Section 85 offence.

Certified a correct transcript,

Laurie Ann Young

Court Reporter