

IN THE TERRITORIAL COURT
OF THE
NORTHWEST TERRITORIES

IN THE MATTER OF:

R E G I N A

VS

JOHN AVALIGAK

Transcript of the Remarks on Sentencing and Sentencing of
His Honour Judge R.M. Bourassa, sitting at Coppermine in the
Northwest Territories on Tuesday, July 2nd, A.D. 1985.

Ms. L. Wall,

Appeared for the Crown.

Ms. E.K. Bengts,

Appeared for the Defence.

Loretta Mott,

Official Court Reporter.

1 THE COURT: John Avaligak is convicted
2 of an offence of assault while armed with a weapon
3 contrary to Section 245.1(1)(a) of the Criminal Code. It is
4 an offence punishable by a maximum of ten years'
5 imprisonment. This man is no stranger to the Court, he has
6 51 convictions on his record going back to 1974. I shudder
7 to think of the thousands of dollars paid by the taxpayers
8 to try and protect the community from him and try and
9 rehabilitate him. In circumstances such as these, I think
10 I am justified in relying on the principles in R v. Levesque
11 and leaving rehabilitation (in terms of a factor to be
12 considered) to the administrative boards and tribunals that
13 are set up for that purpose within the Corrections system.
14 Rehabilitation plays a very small role in my deliberations.

15 Obviously, it would appear from the record that many of
16 the offences are liquor related; obviously the offence that
17 I am dealing with tonight is liquor related; if anyone has a
18 difficulty in connecting alcohol abuse to crime, I think
19 they would only have to sit in this court tonight as we
20 have: Of the 15 or 20 offences that we have dealt with,
21 every single one of them the Crown Attorney has started off
22 by saying "They were drinking..." In every single spousal
23 assault, which I think we have had three or four of them, the
24 Crown started off with the same litany, "The husband and wife
25 were drinking, there was an argument...", and in each case
26 it is the woman who ends up the worse off.

27 This accused was convicted as recently as May of this



1 year for an offence of assault causing bodily harm, and an
2 offence of assault. That offence apparently occurred in
3 September of 1984, which means he was awaiting trial for two
4 charges of assault when he committed this assault on his
5 wife. I'm told that he is solely responsible for the
6 support of his wife, two children, and some other
7 members who live in his house. It is indeed unfortunate
8 that they are going to be hurt by what happens here tonight;
9 however, they are not being hurt by the Court, but they are
10 being hurt by John Avaligak, and there is no way around
11 that. I cannot protect members of John's family from his
12 actions. Nor can the Court protect John Avaligak from the
13 consequences of his own actions: He is responsible for what
14 he does when he is drunk, he is responsible for what he does
15 when he is sober. If he gets into trouble when he drinks,
16 he should stop drinking. If one of us jumped off the roof
17 of this building it wouldn't be surprising if we broke a
18 leg, and I cannot understand how a man such as this has not
19 learned a lesson that he cannot drink, and when he drinks,
20 he might just as well jump off the roof of this building
21 because the consequences are certain.

22 The Court's responsibility is to protect the public,
23 and that is the primary function in dealing with this
24 particular case. It is going to have to be understood by
25 this man, and by others, that they are going to have to
26 control their drinking, and drunk or sober, they are going
27 to have to be responsible for what happens to them and what



1 they do. If others are hurt as a result of what happens --
2 innocent people, that is unfortunate but that is what
3 happens when someone loses his head like John Avaligak
4 has done on this occasion and has done on numerous occasions
5 in the past.

6 Defence counsel has pointed out that since 1982 up
7 until September of last year he stayed out of trouble for a
8 period of two years. It is commendable that he recognizes
9 that he has an alcohol problem and took some steps to try
10 and do something about it, it is the first step towards his
11 own rehabilitation. If he does not do something about his
12 alcoholism, there is going to be another 51 convictions on
13 his record, I have no doubt about that.

14 I would also note as a corollary to that statement by
15 defence counsel -- that he stayed out of trouble -- that it
16 was after receiving a sharp term of imprisonment, and maybe
17 that term of imprisonment had a sobering effect on him. I
18 have already said three times now with respect to beating
19 wives, I don't think it can impact the Court in a mitigating
20 sense that she has forgiven him and she is willing to take
21 him back. There is no room for violence in the family. As I
22 said earlier, violence just begets more violence. Kids see
23 fathers beating mothers and grow up believing that that is
24 the proper way to treat women. Some women end up as
25 prisoners in a household, tied to their husbands for
26 various reasons having to suffer through one assault after
27 another, and unable to extract themselves from that



1 situation. I want John Avaligak and others to clearly
2 understand that the country, the state has an interest in
3 what goes on in a family, and that this country of ours does
4 not tolerate violence in a family, it does not tolerate
5 violence at all. The last thing someone should think of if
6 they are committing an assault is to reach for a weapon.

7 As a result of what John Avaligak has done, this Court
8 has no alternative but to prohibit him from possessing any
9 firearms or ammunition or explosive substances for a period
10 of five years. If the Court were dealing with a man who
11 lived off the land and used firearms on a regular basis to
12 support his family, that would be a real hardship. But the
13 law is clear -- if someone resorts to a weapon in committing
14 an offence, the Court has no alternative but must prohibit
15 him from possessing that weapon. It just points out that the
16 possession of a weapon is a privilege. Weapons, in fact, are
17 essential in the North; virtually every house has more than
18 one weapon. But it is the last thing that people should have
19 to resort to, it had better be the last thing that they
20 resort to, because if they resort to weapons and threaten
21 other people, or injure them, they are going to lose their
22 privileges to have those weapons, and that could cause a
23 severe hardship. These are the kinds of things that happen
24 to people when they get drunk and get totally out of control
25 as Mr. Avaligak was in this case.

26 As I say, it is an aggravating factor that he committed
27 this offence while awaiting trial on another offence. His



1 criminal record cannot be taken in aggravation, his criminal
2 record removes any consideration with respect to mitigation.

3 It also shows a pattern of alcoholism and a pattern of
4 violence. I take into account the injuries suffered by the
5 victim, I take into account the use of the weapon, this was
6 an ongoing assault that only terminated with the
7 intervention of the police. Finally, I point out to Mr.
8 Avaligak what is happening to him here tonight, he is doing
9 it to himself. It is not the Court doing it to him, it is
10 not the police doing it to him, he has done it to himself.

11 Stand up, please, Mr. Avaligak: On the charge of
12 assault I am going to impose a term of imprisonment of eight
13 months. In addition to that, I am going to make the order
14 that I am bound to make under Section 98 of the Code which
15 prohibits you from owning or possessing any firearms for a
16 period of five years.

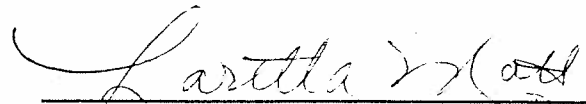
17 (SENTENCING CONCLUDED)

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1 I, Loretta Mott, C.S.R.(A), Court Reporter, hereby certify
 2 that I attended the above Sentencing and took faithful and
 3 accurate shorthand notes and the foregoing is a true and accurate
 4 transcript of my shorthand notes to the best of my skill and
 5 ability.

6 Dated at the City of Calgary, Province of Alberta, this 29th
 7 day of August, A.D. 1985.

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 9 
 10 Loretta Mott, C.S.R.(A),
 Court Reporter.

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