

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

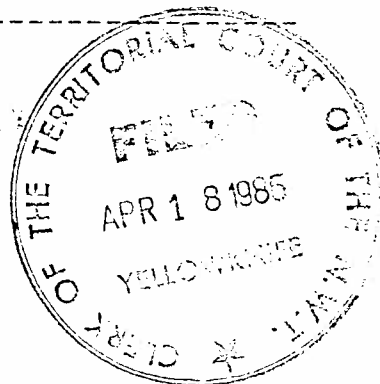
VS

KOOTOO MANNO

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.
Mr. J.W. Bovard, Counsel for the Defence.
Ms. J.K. Harrigan, Court Reporter.



PROSECUTOR'S INFORMATION SHEET

FICHE DE RENSEIGNEMENTS À L'USAGE DU PROCUREUR

City - Ville - D.L. Bureau Frobisher Bay		Investigating Officer - Officier Enquêteur Cst. J.D. MACNEIL	
PERSONAL INFORMATION - RENSEIGNEMENTS PERSONNELS			
Defendant's Name - Nom de l'accusé Koto MANNO		D.O.B. - DN 53-10-14	Driver's Licence No. - Permis de conduire No.
Address - Adresse Hse. 3027 Apex			
DESCRIPTION OF VEHICLE(S) - DESCRIPTION DU(DES) VÉHICULE(S)			
Make - Marque	Year - Année	Colour - Couleur	Licence No. - Plaque d'immatriculation
OFFENCE(S) - DÉLIT(S)			
Offence - Délit Breach Undertaking, Break, Enter & Theft X 2		Section and Act - Article et Loi 133(3) C.C., Sec. 306(1)(b) C.C.	
Date 85-01-26	Time - Heure	Place - Lieu Frobisher Bay Housing Assoc. & Renewable Resources Office	
PARTICULARS OF OFFENCE(S) include any "et al's", additional charges DÉTAILS DES(DES) DÉLIT(S) inclure tout complice et autres accusations			

On Jan. 26 during the evening hours, the accused broke into the Renewable Resour Wildlife Office by prying open a door.

Stolen at this time was a polar bear hide, as well as a Baycrest TV cassette recorder. Total value approx. \$1,500.00. (Both items have since been recovered).

Later in the evening the accused used a crow bar to break into the Frobisher Bay Housing Association Office. Once inside the accused forced open the safe (rendering it useless), and stole approx. \$230.00. (None of which has been recovered).

On Jan. 29, the accused was arrested, given rights and warning and provided a written statement admitting his involvement in the breaks.

The accused has been remanded in custody until March 4th, with reference to this and other outstanding charges.

At the time of these offences the accused was at large on an undertaking with regards to this and other break-ins and is being breached accordingly.

Copy of criminal record attached.

(J.D. MACNEIL) Cst.

85-FEB-01

Officer's SIGNATURE du titulaire

Date

WITNESSES (INCLUDING POLICE) - TÉMOINS (Y COMPRIS LES AGENTS DE LA PAIX)	
NAME - NOM	ADDRESS - ADRESSE
COURT INFORMATION - RENSEIGNEMENTS JUDICIAIRES	
Traffic and Vehicle Conditions - État de routes et conditions météorologiques	C.P.I.C. Check - Vérification par le C.P.I.C.
Name of Crown Attorney/Counsel - Nom du Procureur de la Couronne/avocat	Name of Defence Counsel - Nom du Procureur
ADJUDICATION - JUGEMENT	
Remanded - Arrêté	Remanded Without Conviction - Témoins de la Couronne
Prosecutor - Procureur	Defence Counsel - Avocat de la Défense
Date of Trial - Date du procès	Place of Trial - Lieu du procès
Found Guilty - <input type="checkbox"/> Not Guilty - <input type="checkbox"/> Acquitted - <input type="checkbox"/> Dismissed - <input type="checkbox"/>	Fine - Amende Licence Suspended - Permis de conduire suspendu Other - Autre
Date of Fine - Date de paiement	

Crown

27638

Frobisher Bay		Kenny	
PERSONAL INFORMATION - RENSEIGNEMENTS PERSONNELS			
Defendant's Name - Nom de l'accusé Kootoo MANNO		D.O.B. - DN 53 OCT 14	Driver's License No. / Permis de conduire N°
Address - Adresse Frobisher Bay, N.W.T.			
DESCRIPTION OF VEHICLE(S) - DESCRIPTION DU/DES VÉHICULE(S)			
Make - Marque	Year - Année	Colour - Couleur	License No. - Permis d'immatriculation
OFFENCE(S) - DÉLIT(S)			
Offence - Délit Break, Enter and Theft		Section and Act - Article et Loi	
Date 85 JAN 01	Time - Heure 0300	Place - Lieu Frobisher Bay	

PARTICULARS OF OFFENCE(S) include any "et alia", additional charges / DÉTAILS DU/DES DÉLIT(S) inclure tout complice et autres accusations

On the 1st of January 1985 Mr. MANNO was visiting Mr. David AUDLAKIAK at house # 119. Mr. AUDLAKIAK and his wife and two other friends left at 0230 hrs Mr. MANNO also departed the residence and went his separate way.

Shortly afterwards Mr. MANNO returned to the house while the AUDLAKIAK'S were still out and forced open the back door. There was a minimal amount of damage done, the door lock catch was broken off.

Once inside the house Mr. MANNO stole two bottles of liquor and a case of beer. He then departed the house.

He ran next door and attempted to borrow a snowmobile and while there dropped one of the bottles of liquor and it smashed.

Mr. Manno has a lengthy criminal record. A copy of which is attached.

(J.C. KENNY) Cst.

83 JAN 18

Signature of the Officer

Date

WITNESSES - TÉMOINS D'OPPORTUNITÉ DES AGENTS DE LA PAIX

NAME - NOM	ADDRESS - ADRESSE
To Mark 4 to be spoken to	
Bourassa T.C.J.	
Plus Crown	
Terres in defence	

CLAIM INFORMATION - RENSEIGNEMENTS SUR LE DÉLIT

Name of Claimant - Nom de l'accusé	Name of Crown Attorney, Court Officer - Avocat du Procureur
Address - Adresse	Address - Adresse

ADJUDICATION - JUGEMENT

Findings - Constatations	Remarks including Conviction - Remarques
Punishment - Peine	Defence Counsel - Avocat de la Défense
Place of Issue - Lieu de l'émission	Place of Issue - Lieu de l'émission

CROWN. 26755 Dec 12 1984

Frobisher Bay Sanderson

GENERAL INFORMATION - RENSEIGNEMENTS PERSONNELS

Name - Nom: Kooloo MANNO "et al"

D.O.B. - DV: 53-10-14

Driver's License - Permis de conduire: [blank]

Address - Adresse: Apex N.W.T.

DESCRIPTION OF VEHICLE(S) - DESCRIPTION DU(DES) VÉHICULE(S)

Make - Marque: [blank] Year - Année: [blank] Colour - Couleur: [blank] Licence No. - Permis d'imm. N°: [blank]

OFFENCE(S) - DÉLIT(S)

Offense - Délit: Attempted Theft Over "et al"

Section and Act - Article et Loi: Section 421 C.C.

Date: 84-10-29 Time - Heure: 7:45 PM Place - Lieu: Nordair Cargo Frobisher Bay N.W.T.

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

"et al" Elijah PARR (B. 67-03-17)

"et al" Section 87 C.C. - Carry a Concealed Weapon

On the a/n date and time the two accused entered the Nordair Cargo warehouse asking for one of the employees. That particular employee was not working this evening and the accuseds were advised of this and asked to leave. When the employee that was on duty left the building for a few minutes the accuseds returned to the warehouse office while there was no one around. MANNO attempted to open the safe and in doing so he broke the handle off. PARR apparently was looking around the office. There was nothing taken although MANNO admitted that if they had found something they would have taken it. During this incident MANNO was carrying a tire wrench that he had taken from the work shop, but says he put it back after they were chased out of the building by a returning employee. Both of the accuseds had been drinking prior to this offence. THERE WAS CASH OF A VALUE OF \$3000 IN THE SAFE AT THE TIME OF THIS OFFENCE.

While MANNO was being searched prior to placing him in cells, Cst Fudge found a double edged knife in a leather sheath tucked down the back of MANNO's pants. The knife was inside the accuse's pants completely out of sight in a deliberate manner. When questioned why he carried the knife the accused stated he had it for his own protection.

C.R. - MANNO - Requested
 PARR - No R2RD.

[Signature]
 (B.W. SANDERSON), Cst

84-11-01

Member's SIGNATURE du Membre

Date

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

NAME - NOMS	ADDRESS - ADRESSES

COURT INFORMATION - RENSEIGNEMENTS JUDICIAIRES

Traffic and Weather Conditions / État des routes et conditions météorologiques

C.P.I.C. Check - Vérification auprès du C.P.I.C.

Value of Property Involved / Valeur des biens en cause

Name of Crown Attorney Contacted - Nom du Procureur de la Cour, au besoin

Name of Prosecutor - Nom du Procureur

ADJUDICATION - JUGEMENT

Arrested - Arrêté

Member's Pending Conviction - Zones de suspension

Prosecutor - Procureur

Defence Counsel - Avocat de la Défense

Date of Trial - Date du procès

Place of Trial - Lieu du procès

Verdict - Verdict

Penalty - Pénalité

Costs - Frais

Notes - Remarques

MUNNO

27660.

Det./Branch - Dct./Bureau Frobisher Bay		Investigating Member(s) - Enquêteur(s) Cst. DOTZKO	
PERSONAL INFORMATION - RENSEIGNEMENTS PERSONNELS			
Defendant's Name - Nom de l'accusé Kootoo MUNNO		D.O.B. - DN 53-OCT-14	Driver's Licence No. / Permis de conduire N°
Address - Adresse 3027 Apex, Frobisher Bay, N.W.T.			
DESCRIPTION OF VEHICLE(S) - DESCRIPTION DU(DES) VÉHICULE(S)			
Make - Marque	Year - Année	Colour - Couleur	Licence No. - Plaque d'im. N°
OFFENCE(S) - DÉLIT(S)			
Offence - Délit Poss. of Stolen Property		Section and Act - Article et Loi Sec. 313(b) C.C.	
Date 84-12-19	Time - Heure	Place - Lieu Frobisher Bay, N.W.T.	
PARTICULARS OF OFFENCE(S) (include any "et al's", additional charges) DÉTAILS DU(DES) DÉLIT(S) (inclure tout complice et autres accusations)			

On the 20th of Dec., 1984, Cst. DOTZKO seized Exhibit #4 of Exhibit Report #84-314. This particular exhibit was sold to the Iqaluit Co-Op by Gideon QAUQJUAO and given a Co-Op #575. To the best of Koomook NOOVYA's knowledge this particular exhibit was never sold to the public and it was the only to pass through the Co-Op, and it was in the Co-Op's possession for at least a year.

This exhibit was seen in the possession of the accused and sold to Eyeevudluk and Simeonie OWAPLUK for \$15.00 during the early part of November, 1984 at House 307C.

This transaction was witnessed by Simatuk AUDLAKIAK who was also interested in this particular exhibit.

At the same time the accused sold to the OWPALUK's two more pendants, at \$15.00 each and ivory ring for \$20.00. The origin of these other artworks is as yet unknown. The accused refused to reveal any information.

M.D. Dotzko
(M.D. DOTZKO) Cst.

Member's SIGNATURE du Membre

85-JAN-11
Date

WITNESSES (INCLUDING POLICE) - TÉMOINS (Y COMPRIS LES AGENTS DE LA PAIX)	
NAME - NOMS	ADDRESS - ADRESSES
Koomook NOOVEYA	Hse. 578, Frobisher Bay, N.W.T.
Eyeevudluk OWPALUK	Hse. 307C, Frobisher Bay, N.W.T.
Simeonie OWPALUK	" " " " "
Simatuk AUDLAKIAK	Hse. 119, Frobisher Bay, N.W.T.

COURT INFORMATION - RENSEIGNEMENTS JUDICIAIRES		
Traffic and Weather Conditions / État 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 MR. BOVARD: Your Honour, Mr. Manno had originally
2 elected, I see from Mr. Foldats' notes --

3 THE COURT: Trial by jury on a charge of 421
4 and a break and enter.

5 MR. BOVARD: He would like to re-elect, Your
6 Honour. Trial by Consent.

7 THE COURT: Trial by Consent?

8 MS. BOILLAT: Yes.

9 THE COURT: Kootoo Manno, on a charge of
10 attempting to steal cash, the property of Nordair Limited,
11 of a value exceeding \$200 on the 15th of January, 1985,
12 you elected trial by Judge, alone. Do you now wish to
13 re-elect trial by Territorial Court Judge without a jury?

14 MR. BOVARD: Say yes.

15 THE ACCUSED: Yes.

16 THE COURT: How do you plead to that charge,
17 guilty or not guilty?

18 MR. BOVARD: Your Honour, he pleads not guilty
19 to the charge as read, but guilty to a lesser included
20 offence of theft under \$200.

21 THE COURT: Crown consent?

22 MS. BOILLAT: Yes, sir.

23 THE CLERK: Information number, sir?

24 THE COURT: That's 95.

25 THE CLERK: Thank you.

26 THE COURT: On the charge of break, enter and
27 theft on the 23rd of January, 1985, you elected trial by



1 Judge, alone. Do you now wish to re-elect trial by
2 Territorial Court Judge without a jury?

3 THE ACCUSED: Yes.

4 THE COURT: How do you plead to that charge;
5 guilty or not guilty?

6 THE ACCUSED: Guilty.

7 THE COURT: There is a matter of a not guilty
8 plea to possession of stolen property.

9 MR. BOVARD: He wishes to change his plea, Your
10 Honour.

11 THE COURT: On the 15th of January, 1985, you
12 pleaded not guilty to a charge of possession of an ivory
13 ring and three ivory pendants of a value not exceeding \$200;
14 do you now wish to plead guilty?

15 THE ACCUSED: Yes.

16 THE CLERK: Information number, sir?

17 THE COURT: Ninety-four.

18 On the charge of carrying a concealed weapon, a
19 double-edged knife, how do you plead to that charge; guilty
20 or not guilty?

21 MR. BOVARD: Your Honour, I think the Crown has
22 a submission with regard to that.

23 MS. BOILLAT: Yes, sir. That charge has been
24 withdrawn.

25 THE COURT: Mark that withdrawn at the request
26 of the Crown.

27 You are also charged on the 26th of January with an



1 offence of break, enter and theft or break and enter in
2 committing an indictable offence at the Frobisher Bay Housing
3 Association. On this charge you have the option to elect
4 to be tried by a Territorial Court Judge sitting without
5 a jury, a judge sitting without a jury or a court composed
6 of a judge and a jury. How do you choose to be tried?

7 THE ACCUSED: Territorial Court.

8 THE COURT: How do you plead; guilty or not
9 guilty?

10 THE ACCUSED: Guilty.

11 THE COURT: Crown election on the 133?

12 MS. BOILLAT: Summary, sir.

13 THE COURT: You are also charged on the 26th
14 of January with failing to comply with a condition of your
15 undertaking to keep the peace and be of good behaviour;
16 how do you plead to that charge, guilty or not guilty?

17 THE ACCUSED: Guilty.

18 THE COURT: You are also charged on the offence
19 of break, enter and theft at the Department of Renewable
20 Resources on the 26th of January. How do you choose to
21 be tried on that charge?

22 THE ACCUSED: Territorial Court Judge.

23 THE COURT: How do you plead; guilty or not
24 guilty?

25 THE ACCUSED: Guilty.

26 THE COURT: Please sit down. I'll hear the
27 facts from the Crown attorney. Will you give them to me
28 chronologically?



1 MS. BOILLAT: Yes, sir.

2 With regards, firstly, to the theft, possession of
3 stolen property, sir --

4 THE COURT: Go ahead.

5 MS. BOILLAT: The items in question, this ivory
6 ring and pendant were in the possession of the accused as
7 between the 13th day of October and the 22nd day of November,
8 1984. They had been stolen from the Co-Op here at Frobisher
9 Bay, and Mr. Manno knew of that.

10 He then sold one of these pendants to a Mr. Owpaluk
11 for an amount of \$15 during the early part of November,
12 1984 at House 307C, Frobisher Bay.

13 The item that was sold to Mr. Owpaluk was definitely
14 the property of the Co-Op here, sir.

15 THE COURT: The value of the property?

16 MS. BOILLAT: It was sold for \$15. The value
17 at the Co-Op is \$30.

18 THE COURT: The value of all of the stuff?

19 MS. BOILLAT: The total is approximately \$100.

20 THE COURT: Are those facts admitted as true,
21 Mr. Bovard?

22 MR. BOVARD: Yes, Your Honour.

23 MS. BOILLAT: With regards to the offence of the
24 29th of October, the attempted theft under, on that date
25 at approximately 7:45 p.m. Mr. Manno and another individual
26 entered the Nordair cargo warehouse asking for one of the
27 employees there.



1 The employee was not working and was told by individuals
2 there to leave the premises. Mr. Manno left for a few
3 minutes and they then both returned to the warehouse office
4 when there was no one around.

5 Mr. Manno attempted to open the safe, and in doing
6 so, he broke the handle off.

7 The other individual that was with him was looking
8 around the office. There was nothing taken; however, it
9 was indicated by Mr. Manno in his sworn statement that if
10 there had been something he most definitely would have taken
11 it.

12 Mr. Manno was carrying a tire wrench at that time.
13 It was taken from the workshop out at the cargo, but he
14 left it there when he was chased out by a returning employee.
15 There was a cash value of \$3,000 in the safe at the time
16 of the offence.

17 THE COURT: Was cash in the safe, or the safe
18 has a value of \$3,000?

19 MS. BOILLAT: No, sir. The safe had cash in it
20 of \$3,000; however, it was not actually broken into --
21 attempted.

22 THE COURT: Well, how does that put the guilty
23 plea to attempted theft of under \$200?

24 MR. BOVARD: Your Honour, he didn't know what
25 was in the safe. There's no way -- well, my submission
26 is that it couldn't be proven that he was attempting to steal
27 anything over \$200 because there was no way of him knowing



1 what was inside. It could have been empty, for all he knew.
2 He didn't have any inside knowledge that there was anything
3 in the safe.

4 MS. BOILLAT: The facts, sir, are that the safe
5 was never opened. The handle was broken, but it was not
6 opened.

7 THE COURT: All right.

8 MS. BOILLAT: With regards to the break and enter
9 of the 1st of January -- on the 1st of January Mr. Manno,
10 the accused, was visiting Mr. David Audlakiak, the victim
11 in this matter, at House 119 in Frobisher Bay. The victim
12 was there with his wife and two other friends. They stayed
13 for a while, and then, all left at approximately 0230 hours.
14 Mr. Manno also departed that residence at that time and
15 went his separate way. However, he returned to the house
16 a short time after while the house was empty, forced open
17 the back door. There was a minimal amount of damage done.
18 The door catch was broken off.

19 Once inside Mr. Manno stole two bottles of liquor and
20 a case of beer. He then departed the house. He ran next
21 door and attempted to borrow a snowmobile there, and while
22 there dropped off one of the bottles of liquor.

23 THE COURT: Are those facts admitted as true?

24 MR. BOVARD: Yes, Your Honour.

25 MS. BOILLAT: With regards to the 26th of January,
26 in regards to the break and enter, the accused broke into
27 the Renewable Resources Wildlife Office by prying open a door.



1 Stolen from within this office was a polar bear hide,
2 as well as a Baycrest TV cassette recorder.

3 Total value is estimated at \$1,500. Both items have
4 been recovered.

5 Later on in that same evening Mr. Manno used a crowbar
6 to break into the Frobisher Bay Housing Association Office.
7 Once inside he forced open the safe rendering it useless
8 and stole approximately \$230. This money has not been
9 recovered.

10 THE COURT: Are those facts admitted as true
11 on both charges?

12 MR. BOVARD: Yes. The only thing that is not
13 admitted is the taking of the TV cassette recorder.

14 THE COURT: Does Crown wish to comment on that?

15 MS. BOILLAT: No. Mr. Manno was on an undertaking.

16 MR. BOVARD: That's admitted, Your Honour.

17 MS. BOILLAT: At the time of committing both of
18 those offences, sir.

19 THE COURT: Thank you.

20 On sentence?

21 MS. BOILLAT: Yes, Your Honour.

22 MR. BOVARD: The record is admitted, Your Honour.

23 THE COURT: Okay.

24 MS. BOILLAT: I tender Mr. Manno's record, Your
25 Honour.

26 Your Honour will note the very substantial record of
27 Mr. Manno, and I submit, sir, one of the more lengthy, if



1 not the most lengthy, criminal records that has been presented
2 to Your Honour today.

3 Mr. Manno has consistently been involved in
4 property-related offences, having received very lengthy
5 terms of incarceration.

6 Referring notably to an offence in 1979 when he was
7 sentenced to 23 months in relation to break and enters.

8 In May, 1982 two again break and enters with two years,
9 less a day. He was paroled, and, as Your Honour will note,
10 as indicated on the criminal record, a parole violator and
11 was recommitted to serve -- into custody.

12 THE COURT: When was he released; do you have
13 any indication?

14 MS. BOILLAT: I don't have that information, Your
15 Honour.

16 Several of these offences, sir, occurred outside of
17 this jurisdiction.

18 Mr. Manno is again before the Court, Your Honour, on
19 the same type of offence, beginning in November of last
20 year attempting to break and enter or entering into the
21 safe. Then, as of this year, sir, he's been involved in
22 consistent break and enters on January the 1st, and then,
23 some 25 days later the break and enters on the same day,
24 and I submit a bearing factor that he was on an undertaking
25 at the time.

26 Most particularly, in regards to the latter two offences
27 I submit that again in a range of break and enters they are



1 not minor and that substantial amounts were taken in regards
2 to the break and enter that occurred on the 1st of January.
3 Sir, I point out that again it's a private dwelling, which
4 is considered as more serious by the Courts.

5 I submit that Mr. Kootoo Manno took advantage, knowing
6 full well that the occupants of the house had left, having
7 undoubtedly seen the liquor there and taking advantage of
8 the situation.

9 Sir, because of Mr. Manno's substantial record for
10 practically and solely break and enters, sir, I again submit
11 that there comes a point where Your Honour must consider
12 a penitentiary time or time certainly close to penitentiary
13 time, because of the previous lengthy periods of incarceration.
14 I leave it up to Your Honour as to what the appropriate
15 sentence, sir, will be in this matter.

16 THE COURT: Mr. Bovard.

17 MR. BOVARD: Thank you, Your Honour.

18 Regarding these offences, Your Honour, I'd submit that
19 some of them are on the minimal end of things.

20 The break-in at the Renewable Resources, he took a
21 polar bear skin and he left. He was a bit drunk, and then,
22 he left and as soon as he left he threw it away outside
23 of the Renewable Resources, and then a few days later, when
24 he was arrested, he took the police back to where it was
25 and they recovered it. Nothing was lost in that particular
26 offence.

27 He broke into the Housing Association and took \$230.



1 That perhaps is the one where the most was lost in terms
2 of what was taken and the damage done, but nevertheless,
3 I still submit that it's not one of the worst break and
4 enters that will come before the Court; and also, the event
5 at Nordair. It appears that all that happened was the handle
6 was broken off of the safe there, although there was a
7 substantial amount of money in the safe. He didn't know
8 how much was in there and nothing wound up being taken,
9 anyway.

10 Your Honour, with regard to his background, he's 31
11 years old. He was born in Cape Dorset. He lived most of
12 his life between Cape Dorset and Frobisher Bay. He has
13 served a lot of time in jail, but the times that he hasn't
14 been in jail he has been living in Cape Dorset, mainly.
15 He's been in Frobisher Bay about four years. He has a Grade
16 8 education. He was educated in Montreal. He has some
17 relatives in Frobisher Bay and usually stays with them when
18 he's here. He's not married. He's a single man, although
19 he has one four year old daughter. He was unemployed when
20 he was arrested; however, he has worked before in Frobisher
21 Bay at the Legion as a busboy and he (inaudible) again as
22 a dishwasher. He hasn't had a very extensive work history.
23 He's been in custody on consent since January 29th, and
24 he's been up at the R.C.M.P. cells.

25 Your Honour, in speaking with Mr. Manno about his
26 background there is certain aspects of it which I feel are
27 important for the Court to know, and I think that he could



1 probably explain them a lot more eloquently than I could,
2 and therefore, I'd like to call Mr. Manno to the witness
3 stand for that purpose.

4 (KOOTOO MANNO, SWORN, EXAMINED BY MR. BOVARD)

5 Q Mr. Manno, can you tell the Court where you lived up until
6 you were about nine or ten years old?

7 A I used to live in -- I was born in Cape Dorset back in '53,
8 and when I was born my mother died.

9 Q Hmm hmm. Who did you live with when your mother died?

10 A That I really don't know. I can't say who I was living
11 with when I was growing up in Cape Dorset.

12 Q Okay. How about your father; where was he?

13 A My father was in the hospital. He spent 17 years in the
14 hospital.

15 Q Where was that?

16 A Mostly down South; Montreal, Toronto. They even took him
17 down to the States. They never got him going.

18 Q What was wrong with him?

19 A He had some kind of TB.

20 Q Where is he now?

21 A He died in Edmonton about six or seven years ago.

22 Q Have you spent all of your life in the Northwest Territories?

23 A No, I haven't. I spent nine years down South.

24 Q When did you go down South first?

25 A That was back in 1962 or '63.

26 Q How old were you then?

27 A About ten.



1 Q Where did you go?

2 A They took me to a place -- a Browndale farm -- not a Browndale
3 farm, a boys' farm in Montreal in Sulbridge (phonetics).

4 Q Hmm hmm.

5 A And I spent five years there.

6 Q Can you tell us what it was like for you to be in that kind
7 of atmosphere?

8 A Well, I really don't know. Like they throw me away. Like
9 I was not like a person at all. I didn't have any interpreter,
10 and I didn't have any friends, and I didn't know what was
11 going on for at least three years I was there. I finally
12 said something to somebody that I didn't mean. I didn't
13 really know what it meant.

14 Q Did you speak English when you went down to the boys' farm
15 in Montreal?

16 A I didn't know one word.

17 Q How long was it before you started speaking English?

18 A About three and a half years I was in there I started, you
19 know -- started a little bit of talking in English.

20 Q Were there other Inuit in that farm?

21 A No, I was all alone. Like I didn't know anybody there,
22 and I didn't have any interpreter. They just left me there
23 for five years I was in there.

24 Q Where did you go after you left there?

25 A After I spent five years in there they tried for me to
26 Toronto, the place called Browndale Farm in Ontario. There
27 was a few of them in Ontario that I went to -- Halburton



1 (phonetics), Oakridges (phonetics), Minden (phonetics),
2 New Market (phonetics); you know, all outside of Ontario.

3 When I got there I never really knew why they put me
4 in there in the first place. Like it was worse. It got
5 worse than where I was down in Montreal. It even got worse.
6 It was the same thing. No friends, you know, didn't know
7 anybody. Every time I get into any kind of trouble they
8 used to haul me down on the floor for two or three hours
9 holding me for no reason at all. You know, it was very
10 hard life when I was growing up down there; especially when
11 you don't know anybody.

12 Q What kind of people were in those homes that you were in?
13 What were they like?

14 A They were, you know -- no offence to anybody, but they were,
15 you know, terrible to me. They were what you call retarded
16 people. They don't know what was going on, and I sort of,
17 you know, got that kind of attitude myself for being there
18 for no reason at all, and that's how I grew up.

19 Q How long were you in these Browndale homes?

20 A I was there four years.

21 Q Did you have any contact with any Inuits during that time?

22 A Nobody at all until I came back up North in 1972.

23 Q How old were you then when you came back up North?

24 A I was 18. They had to let me go when I turned 18, and I
25 was on my own since then, and when I came back from Browndale
26 Farm I went home -- back to Cape Dorset, and I couldn't
27 speak Inuktotuk, so they used to beat me up for not saying

1 anything to anybody, so I got kind of -- a little angry
2 and the first time I break in so I could get away from them,
3 but it didn't work that way.

4 Q Now, have you ever found out who it was that sent you down
5 to these homes to begin with?

6 A I don't know. Nobody never told me anything. I tried to
7 find out, and nobody never say anything to me.

8 Q Did you make friends very easily when you came back?

9 A No, I didn't. I had a hard time to make friends, and the
10 only very good friend I had, he committed suicide at my
11 place about seven weeks ago.

12 Q Okay. Mr. Manno, I have no other questions. Perhaps the
13 judge or the Crown attorney might have some questions for
14 you.

15 THE COURT: Ms. Boillat?

16 MS. BOILLAT: I have no questions.

17 THE COURT: Thank you, Kootoo.

18 MR. BOVARD: Your Honour, the only other
19 submissions I'd make to you would be in regard to his record.

20 Mr. Manno indicated that he came back to the Northwest
21 Territories in 1972 when he was 18 and said that he was
22 having a pretty hard time and started getting into trouble
23 to get away, and as you can see his record does start in
24 April of 1972, and perhaps the very tragic youth, I guess,
25 that Mr. Manno had -- I know it doesn't excuse committing
26 criminal offences, but perhaps it does give some indication
27 as to what kind of upbringing this individual had, what



1 kind of direction he was given or was not given in his
2 formative years. And maybe that would indicate to the Court
3 that perhaps someone like him is somewhat more prone to
4 going astray in a community where he's not being treated
5 very well, and perhaps it would indicate to the Court that
6 someone like him maybe doesn't have the psychological or
7 emotional resources that maybe other people do have that
8 were raised in loving and caring families to avoid such
9 a merry-go-round and vicious circle of criminal behaviour
10 as Mr. Manno has engaged in over the last 13 years.

11 I just put that forward to Your Honour in order to
12 be able to elaborate and express to the Court as best as
13 possible Mr. Manno's personal history.

14 THE COURT: What do you do with it, Mr. Bovard?
15 I agree it's tragic. I don't understand how it happened
16 or why it happened. I can certainly understand his anger,
17 as he stated, in committing his break and enters to get
18 away from Cape Dorset, but that was 13 years ago, and if
19 he's still angry, surely the community has to be protected
20 from him.

21 What do I do with that? I mean, if he had gone two
22 years without getting into trouble, then perhaps I could
23 justify some disposition other than penitentiary, but it's
24 simply unbroken.

25 MR. BOVARD: It's ironic, Your Honour. My
26 submission is that the community that the law seeks to
27 protect is the very community that abandoned Mr. Manno when



1 he was young and shipped him down to a place where there
2 was no Inuit. He didn't even speak his own language or
3 any language for the first two or three years, and it's
4 this community that now says to the Court to protect us
5 from this horrible person, and it's my submission that this
6 community bears, to a large degree, responsibility for having
7 abandoned this person.

8 THE COURT: How do they live up to this
9 responsibility? Supposing I don't sentence Mr. Manno to
10 anything; from his record, I think I'd -- if I was a betting
11 man, I'd bet he'd be back before the Courts in six months.

12 MR. BOVARD: He very well might be, Your Honour.
13 I'm not saying because of his tragic background he shouldn't
14 be in jail. I think that would be going too far in keeping
15 with the sentencing case law. However, I would respectfully
16 submit to put this man in the penitentiary, for example,
17 is basically more of the same of what he's always been
18 receiving for his whole life that obviously hasn't worked
19 very well. His life started out that way, being put away
20 in places far away from where he was; originally away from
21 his own peers, away from his own culture, and I respectfully
22 submit that has had something to do with the way he's turned
23 out, and just to apply the same medicine to cure this person
24 seems to be not appropriate, in my respectful submission.

25 Like I say, Your Honour, I'm not saying he shouldn't
26 go to jail, because I think the law has to be recognized
27 and adhered to, as well, but I would respectfully submit



1 that you sock him away in the penitentiary for years would
2 not really be a very happy solution, either. It's been
3 done before, Your Honour, and I don't know if it would help
4 that much in this case, but just the account of what has
5 happened to Mr. Manno could perhaps, in transcript form,
6 be sent to leaders in the community he came from to show
7 them that it's not always the offender that is totally black
8 in the community and the community that's totally white,
9 and that the community shares a responsibility for the
10 behaviour of its own kind. These people are not born
11 criminals. Something happens to them along the way, and
12 in my submission this is a particularly classic case of
13 somebody being abandoned. Who knows what social agencies
14 were or were not involved? Who knows what family turned
15 their back on them, but this young boy was clearly abandoned.

16 THE COURT: I'm sure Kootoo Manno is not totally
17 black, and I'm sure the community of Cape Dorset is not
18 totally white, to use your analogy. That still leaves the
19 criminal courts with the problem: What do we do with the
20 man to keep him from stealing and breaking and entering?
21 If there was anything in the world that I could do other
22 than sending him to jail for two or three years I'd do it,
23 but what can we do? I'm sure he's received Sunday school
24 lectures from half a dozen judges in Ontario and Quebec
25 and the Northwest Territories. He's been sentenced in all
26 three. He's gotten as close as you can get to a penitentiary
27 term. I agree he was probably institutionalized from the



1 time he was a child, but what alternative is there? He's
2 expressed no desire to me today or tonight or anywhere down
3 the road to change. I don't like to see a 32 year old man
4 going to jail at Yellowknife with a bunch of teenage offenders
5 or federal penitentiary where life is awfully rough.

6 MR. BOVARD: Not too long ago, Your Honour, I
7 wrote a letter to the Superintendent of the Yellowknife
8 Correctional Centre asking what programs they have. He
9 wrote me back. He sent me about half an inch of material.
10 I just saw it on my desk when I came in. I haven't had
11 a chance to read it over. Perhaps I could look at that
12 and show it to Your Honour, show it to the Crown. Maybe
13 in that material there is something available for this man
14 that could be recommended by the Court that maybe would
15 give him some kind of skill, maybe give him some kind of
16 self-identity other than the one he has now. Maybe he could
17 see himself in a different light if only he was taught to
18 do something constructive.

19 THE COURT: Unfortunately, sadly, the manuals
20 are reams thick, but what's on the street and what is in
21 place is usually light years removed from what's in the
22 manuals. Again, apart from that it depends on Kootoo Manno;
23 if he has no spirit, doesn't move to pull himself up by
24 his bootstraps, no one else will; no one else can.

25 MR. BOVARD: That is correct, Your Honour. There
26 is no way to argue with that.

27 One principle I would like to emphasize, Your Honour,



1 is that Mr. Manno should be sentenced for what he's done
2 now and not so much for, you know, all the things he's done
3 in the past. He's paid heavy penalties already before.
4 These break and enters, in my submission, are, of course,
5 serious. There's a lot of them, as Your Honour has pointed
6 out, and the community has to be protected, but on the other
7 hand, do they merit a penitentiary term? In my submission
8 they are not as serious as that to merit a penitentiary
9 term in light of the circumstances of the case law; at least,
10 in the Eastern Arctic, and I know he's got a bad record,
11 but I guess it's trite to say that he can't be sentenced
12 again for everything he's been sentenced for before.

13 THE COURT: Well said, Mr. Bovard.

14 MR. BOVARD: If Your Honour wishes to look at
15 the information sent to me, and if you wish --

16 THE COURT: I am aware of the programs that
17 are there, and even as restricted as it is, unfortunately
18 jail isn't much different than life. What happens to him
19 in there depends, to a degree, on what he does with himself.

20 You're in charge of your own life, Kootoo. No one
21 else is living it for you. You know, I'm sure there is
22 nothing that the jail authorities would like better than
23 to say, "Hooray, look at what we've done with Kootoo Manno."

24 It would be the icing on all of their cakes, but it
25 depends on him. Nobody can be forced rehabilitation.

26 MR. BOVARD: Thank you, Your Honour. Those are
27 all of my submissions.



THE COURT:

Thank you, Mr. Bovard.

1 Well, Kootoo Manno is convicted of a number of offences:
2 Attempted theft, two charges of break, enter and theft,
3 possession of stolen property -- oh, three charges of break,
4 enter and theft.
5

6 Kootoo Manno, on his own evidence, in submissions of
7 counsel, presents a sad situation to the Court of a youngster
8 going back to ten years of age who, for some reason
9 unbeknownst to him -- apparently he had no parents and no
10 one in Cape Dorset wanted him, and he was, for some reason,
11 taken away and kept in boys' homes or farms in the South.

12 He came back to Cape Dorset at 18 and commenced a long
13 string of criminal offences, 29 convictions in all. One
14 can accept that perhaps for the first few years a lot of
15 these offences were acted out by someone who was angry
16 and upset. The docket is full of them today, but usually
17 one tends to see, by the time one reaches the age of 28
18 or 30 years of age that they are starting to make choices
19 in their lives and beginning to recognize that spending
20 time in jail is a big waste of time, as nice as it may be.
21 But Kootoo Manno is 32 years of age and before the Court
22 today on six offences, I believe. As I say, it's just been
23 non-stop offences in Cape Dorset, Frobisher Bay, Yellowknife,
24 Montreal, Toronto, Milton, Toronto.

25 The last sentence he received was two years less a
26 day, and I'm certain he must have been cautioned and given
27 Sunday school lectures innumerable times. He must be well



1 aware of the fact that the penitentiary is waiting for him,
2 and frankly, after hearing the submissions of Crown counsel,
3 the facts of the cases and looking at the record, I was,
4 at first blush, inclined to consider a sentence in the
5 neighbourhood of three years in federal penitentiary.

6 Kootoo Manno may very well have had a lot of trouble
7 when he was a youngster and had a lot of difficulties and
8 denied many things, but he's still a human being. He's
9 not an animal. He's still a man with a spirit. He's still
10 a man who is in control of his own life. He's still a man
11 who can pick himself up by his bootstraps, and that's what
12 makes him different from any other being on this earth.
13 He's not unintelligent. I'm sure Kootoo Manno can make
14 the connection between committing a crime and going to jail.
15 The crimes that have been described for me I would not
16 classify as minor. It's almost -- well, the offence at
17 Nordair, the attempted theft; a substantial amount of money
18 was at risk. There was attendance at a safe at a house,
19 again looking for money. A substantial -- a valuable polar
20 bear hide was stolen from the Renewable Resources, but
21 recovered.

22 Kootoo Manno turned around and attacked a host who had
23 invited him to his house -- to steal from the man.

24 As I say, looking at all of those factors, I was inclined
25 to begin my considerations at three years at federal
26 penitentiary. If Kootoo Manno is not going to do anything
27 with himself I don't think the Court has any alternative



1 but to put him in a situation where he can't do anything
2 with anyone else, and that means putting him away for as
3 long as justifiable under all the circumstances.

4 Certainly Mr. Bovard is correct that he cannot and
5 should not be sentenced on his past record. It simply means
6 that there is no mitigation available. However, I can also
7 look at the record as an indication of his proclivities,
8 the fact that he's not responded to any probation.

9 It's equally obvious to me that simply warehousing
10 this man, if the door has not already been closed on him,
11 would certainly edge it shut a few more inches, and he'll
12 be in and out of jail the rest of his life. That's all
13 he knows. It would appear, from his record, that that's
14 all that he knows. I agree with Mr. Bovard that if there
15 was someone, somehow or something that could work with this
16 man and change his attitude about life that he may not yet
17 be a lost soul. I point out to you, Kootoo, that's dependent
18 upon you. Nobody else can do it for you. There isn't one
19 person in this world that can do that for you. You have
20 to draw from other people, perhaps, to assist you. There
21 are people around that are willing to assist you. If you
22 don't do something you'll be back in jail again. I don't
23 know what can be done to keep you out of the penitentiary.
24 There is very few mitigating factors available before me
25 today. I can see no good reason for not sending you to
26 a term in the penitentiary, as I say, if not for the only
27 reason of keeping him out of other people's houses and other
28 people's pockets.



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Now, there is a section in our Criminal Code that provides for suspended sentences. The whole idea behind suspended sentences -- it used to be that I could say to a person like Kootoo Manno, "I'm going to put you in jail for five years, but if you stay out of trouble for three you won't have to serve the time."

It was very easily understood. It was very clear to the person what they had at risk.

Unfortunately, in my view, in any event, that's been changed. Now when dealing with suspended sentences we say that the passing of sentence is suspended, that if a person is placed on probation, if he breaches that probation that maybe -- they may result in a conviction for that. If they are convicted of any other offence under the Criminal Code they will be brought back before the Presiding Judge and sentenced on the original offence. It looks good on paper, but, in fact, is not applied in the Northwest Territories.

In the three years that I've been sitting I have yet to have an accused person who is convicted in my court, and I know full well, after receiving a suspended sentence and being convicted again of another substantive offence -- I've never had one brought back to me for sentencing on a suspended sentence, and I think that's, indeed, unfortunate.

I recognize there's problems with the Crown attorney, with the circulation of judges, circulations of Crown and the paperwork. I think it's, indeed, an unfortunate situation.



1 I'm tempted, in this case, perhaps to mix a little
2 mercy, although for the sake of me I don't know why I should.
3 Kootoo Manno hasn't given me anything on which I could
4 possibly, happily hang my hat on to say that yes, there
5 is a chance of rehabilitation here.

6 On the other hand, I'm really not anxious to warehouse
7 the man. Indeterminate sentences have been removed from
8 the Criminal Code. In other words, there is no way of making
9 the man's release dependent upon his responsiveness to
10 rehabilitative or reformation efforts.

11 Again, I don't know perhaps why I should even be talking
12 about reformation, because there's nothing to indicate to
13 me that he's reformable, other than I suppose a belief that
14 he's a human being and perhaps somewhere, somehow in the
15 depths of his soul something can be done before it's too
16 late, and I dare say, it's going to be too late pretty soon.

17 As I said earlier, if this man was being sentenced
18 in the South -- if he was being sentenced in Nova Scotia
19 he would go to the penitentiary; I have no doubt about that.
20 I dare say it would be somewhere between three and five
21 years.

22 I'm taking totality into account. It's, I suppose,
23 difficult in a sense to weigh all -- each individual sentence.
24 I'm concerned, basically, with the total.

25 Kootoo Manno, would you stand up, please? On the charge
26 of attempted theft, 294(b), I'm going to sentence you to
27 12 months imprisonment.



1 On the charge of break, enter and theft at David
2 Audlakiak's house, 16 months imprisonment.

3 On the charge of break, enter at the Frobisher Bay
4 Housing Association, 16 months imprisonment.

5 On the charge of break, enter and theft at the Department
6 of Renewable Resources, 16 months imprisonment. On the
7 charge contrary to 133(3) of the Criminal Code, one month
8 imprisonment.

9 I'm sorry. I made a mistake there. On the charge
10 of possession of stolen property it will be 12 months
11 imprisonment.

12 The 133 matter, one month imprisonment, and that leaves
13 one more break, enter and theft to deal with.

14 All of these sentences will be concurrent to the total
15 of 16 months.

16 On the one remaining break, enter and theft I'm going
17 to suspend the passing of sentence and I'm going to place
18 you on probation for as short as I think I can, and that's
19 one year. You are to keep the peace and be of good behaviour.
20 That just means stay out of trouble, and I point out to
21 you, and I point this out to the Crown, as well, I'm doing
22 this -- I really feel strongly that you should be looking at
23 a penitentiary term.

24 I would like you to believe, at least for a while,
25 and I'd like you to believe sincerely, that there is still
26 a chance for you, and the Courts will respond if you try
27 and help yourself. I'll give you that opportunity. I'm



1 going to suspend the passing of sentence on that one break
2 and enter charge, as I said, and place you on probation.

3 If you are convicted of any criminal offence while
4 you are on probation for a year after your release you may
5 be brought back before me and sentenced on that charge,
6 and I expect the Crown attorney to bring it back before
7 me. As I have already indicated to you, I think that you
8 should be serving a penitentiary time. If you are brought
9 back before me you may very well end up with that. Do you
10 understand that?

11 THE ACCUSED: Yes.

12 THE COURT: If you apply yourself while you
13 are at Yellowknife Correctional Centre you will be released
14 earlier than normal. If you can stay out of trouble for
15 a year it will be over and done with.

16 There are people that are willing to bend over backwards
17 for you. It will depend on you. I'm giving you as much
18 as a chance as I think the Court can give you. If you
19 respond to that chance, so much the better. If you don't,
20 nobody can do anything for you; do you understand that?

21 THE ACCUSED: Yes, Your Honour.

22 MS. BOILLAT: Your Honour, in regards to --

23 THE COURT: That will be one day -- I'm sorry.
24 Suspended sentence.

25 Go ahead.

26 MS. BOILLAT: Yes, sir. In regards to the
27 possession of stolen property, I believe it is a summary
28 matter.



1 THE COURT: Oh, that's an attempt, as well.

2 MS. BOILLAT: There's also the attempt -- well,
3 there is, first of all, the possession of stolen property
4 -- a pendant, sir, which is a summary matter, and the attempt.

5 THE COURT: I'd modify my order, then, to four
6 months on each of those.

7 Thank you for pointing that out to me, Ms. Boillat.
8 It's been a long day.

9 MS. BOILLAT: Yes, sir.

10 MR. BOVARD: Thank you, Your Honour.

11 THE COURT: The probation order can always be
12 sent to Yellowknife Correctional Centre.

13 Is everyone clear on that sentence? I went through
14 it fairly quickly.

15 MR. BOVARD: Yes, Your Honour.

16 THE COURT: Total 16 months.

17 MR. BOVARD: Four months on the two summary
18 convictions?

19 Thank you, Your Honour.

20 Sir, there's a couple of preliminary hearings still
21 left. Could we have a short adjournment?

22 (BRIEF ADJOURNMENT)

23 THE COURT: Counsel, is there a problem with
24 the Manno matter? I understand that I was in error. I
25 think I referred to four break and enters; in fact, there
26 were only three.

27 MR. BOVARD: Yes, Your Honour. I didn't catch it,



1 either. It was hard to keep track of them.

2 THE COURT: Did counsel require clarification
3 of the sentence that I ordered?

4 MR. BOVARD: I guess what we are wondering is --
5 for the criminal record of Mr. Manno we were wondering --
6 will it show, then, that he received 16 months concurrent
7 on two break and enters, and then, a suspended sentence
8 on one break and enter?

9 THE COURT: Yes.

10 MS. BOILLAT: With probation referring to that
11 third break and enter?

12 THE COURT: The suspended sentence, obviously.
13 And then, one month concurrent on the 133.

14 MS. BOILLAT: Yes.

15 THE COURT: The 87 was withdrawn.

16 MS. BOILLAT: Yes.

17 THE COURT: And the four months concurrent on
18 the 313(b) and four months concurrent on the attempted 294(b).

19 MR. BOVARD: Could Your Honour indicate which
20 break and enter was the one he received the suspended sentence
21 for?

22 THE COURT: That was Information 385. I think
23 that was the Renewable Resources break and enter.

24 THE CLERK: Yes, sir.

25 MR. BOVARD: Thank you, Your Honour. That
26 clarifies it.

27 MS. BOILLAT: Thank you, Your Honour.



(CONCLUDED)

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I, Judy K. Harrigan, C.S.R.(A), Court Reporter, hereby certify that I attended the above 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 14th day of March, A.D. 1985.

J.K. Harrigan

Judy K. Harrigan, C.S.R.(A),
Court Reporter.

JKH/kt

His Honour Judge R. M. Bourassa

