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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

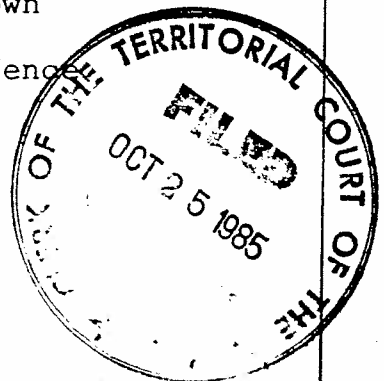
ALLEN ROBERT KOYZAN

Transcript of the oral sentencing delivered by His Honour Chief Judge J.R. Slaven, sitting at Yellowknife, in the Northwest Territories, Wednesday, August 28th, A.D. 1985.

APPEARANCES:

MS. N. BOILLAT Counsel for the Crown

MR. S. TATE Counsel for the Defence



1 THE COURT: Mr. Koyzan, the last time I saw you here was
2 a stupid theft under, I forget what, meat or something. That
3 would be a year and a half ago, or over a year ago. You told
4 me you were out around Boundary Creek and had some dogs and
5 so on, and you were fishing, fishing to feed the dogs and so
6 on, eh?

7 MR. KOYZAN: Yes.

8 THE COURT: I guess I sent you to jail. You were already
9 in jail. I didn't do much to you, eh?

10 MR. KOYZAN: Sir, I been working to straighten out my life,
11 and I think I'm doing--

12 THE COURT: Yes. Well, you told me you were straightening
13 it out then?

14 MR. KOYZAN: Yes, sir, I--

15 THE COURT: I must be quite honest. One of the Court
16 Clerks saw you here today and said, "My golly, Mr. Koyzan
17 looks good." Now, you have taken on a wife and children.
18 The last time you were in front of me, Mr. Koyzan, you said,
19 "Yes, I did that theft, and I'm sorry, and I was drunk, and
20 I was stupid, and I have now got my life worked around."
21 When a Judge comes to sentencing, the fact that an accused
22 person pleads guilty and says, "I'm sorry I did that stupidity,"
23 helps a lot. But if you were advised by your original lawyer,
24 who wasn't Mr. Tate, that you've got a technical defence, you,
25 of course, are entitled to have your trial, and you have had
26 it, and I found you guilty. But when I come to sentence now,
27 Mr. Koyzan, you haven't been charged with stealing that thing,

1 but did you? Did you steal it, and are you sorry you did,
2 or were there other guys with you, or what do you say to me
3 today?

4 MR. KOYZAN: Well, Your Honour, I didn't--I didn't steal it.

5 You see, when we all get together and go drinking--

6 THE COURT: At The Gold Range or whatever, yes.

7 MR. KOYZAN: Behind The Gold Range it was there I picked it
8 up, and I had it in my possession. I know I had it in my
9 possession.

10 THE COURT: And you knew it was stolen.

11 MR. KOYZAN: I didn't know it was stolen.

12 THE COURT: Oh, what the heck--

13 MR. KOYZAN: Your Honour, people--

14 THE COURT: What the heck would you think when you have--

15 I have never been out behind The Gold Range, I grant you.

16 MR. KOYZAN: A lot of people drink there, and they hide
17 things and--

18 THE COURT: Yes. Okay. I'll buy that. But you took it.

19 And you were going to sell it?

20 MR. KOYZAN: Well, I didn't have any money on me, sir.

21 THE COURT: But you were going to sell it?

22 MR. KOYZAN: I didn't--I don't know where I was going with
23 it. I just had it on me.

24 THE COURT: Well, you knew it didn't grow there?

25 MR. KOYZAN: Yeah, I know, sir.

26 THE COURT: But you told me that great story a year ago in
27 March, you remember, that you were out there around Boundary

1 Creek, and you asked me, I couldn't put you in jail because
2 you had to feed the dogs and so on and so forth, and you were
3 going to go straight then. Now, I take it your lifestyle has
4 changed quite a bit since then, has it?

5 MR. KOYZAN: No. I'm still up the river.

6 THE COURT: Well, this lady that is with you with the
7 children, she wasn't with you a year ago March, was she?

8 MR. KOYZAN: No. We have been together a year now.

9 THE COURT: Yes. What are you doing now?

10 MR. KOYZAN: Well, I am going to be--well, I was going to go
11 back on the fall hunt. You see, I come in off the spring hunt
12 too late. I still got most of my fur.

13 THE COURT: Is your lady a Northener?

14 MR. KOYZAN: She's from Ontario.

15 THE COURT: Where are you living now?

16 MR. KOYZAN: Fraser Arms East.

17 THE COURT: Who has got that apartment?

18 MR. KOYZAN: Both of us. It's a joint commitment.

19 THE COURT: Who pays the rent?

20 MR. KOYZAN: Well, she is on, I don't know, maternity leave
21 right now, so--

22 THE COURT: She had been working for the Government?

23 MR. KOYZAN: For Friendship Centre.

24 THE COURT: You can speak, Miss, if you want. Who got you
25 the apartment?

26 MR. KOYZAN: We got it together when--

27 THE COURT: From whom?

1 MR. KOYZAN: When we first met.
2 THE COURT: From whom?
3 MR. KOYZAN: I don't know.
4 MS. BRACKEN: I had my name on the waiting list.
5 THE COURT: With whom?
6 MS. BRACKEN: Mid-West Management.
7 THE COURT: So, it's not a Government deal?
8 MS. BRACKEN: No.
9 THE COURT: You're paying the rent to a commercial renter?
10 MS. BRACKEN: Mmphmm.
11 THE COURT: And with the children you're not working now?
12 MS. BRACKEN: No.
13 THE COURT: Pardon?
14 MS. BRACKEN: No.
15 THE COURT: What do you call your husband, Baby?
16 MS. BRACKEN: Yeah.
17 THE COURT: Well, are you working, Baby? Can I call you
18 that?
19 MR. KOYZAN: If you want.
20 THE COURT: Well, what do you want me to call you? Mr.
21 Koyzan. Okay. What do you think I should do?
22 MR. KOYZAN: Well, give me a break if you could.
23 THE COURT: Well, I did a year and a half ago, you see,
24 Remember?
25 MR. KOYZAN: I've changed quite a bit since then.
26 THE COURT: Yes, you look good.
27 MR. KOYZAN: Lots of trout.

1 THE COURT: Pardon?

2 MR. KOYZAN: Lots of trout from Plumber's Lodge.

3 THE COURT: Well, maybe your lady is a good cook, too. You
4 want me to give you a break. What do you call a break? You
5 know, I want to give you a break, Mr. Koyzan. I have known
6 you several years, and you're a cut above a lot of others,
7 and I don't think you're a bad guy at all, and I think you
8 can have a wife and kids and be a worthwhile citizen. I
9 really think that. So, I gave you a break a year and a half
10 ago, and you let me down.

11 MR. KOYZAN: I didn't mean to, but since then I've been
12 trying to rehabilitate myself, like.

13 THE COURT: Yes.

14 MR. KOYZAN: That's why I got--

15 THE COURT: And I think you can, you see. I think you're
16 a smart fellow, and you can do good. I really think that,
17 Mr. Koyzan. I really do. But you get into this foolishness.
18 All right. You have got a lovely lady there and a couple of
19 kids, and what in the heck were you doing out back of The
20 Gold Range drunk on the 7th of May. How does that fit?

21 MR. KOYZAN: I was pretty hung over. So, I was drinking,
22 and I have been slowing down quite a bit on my drinking, just
23 that--

24 THE COURT: You should be pretty happy to have a lovely
25 lady and children like that.

26 MR. KOYZAN: I am.

27 THE COURT: What are you doing out there in these stupidi-

1 ties? It's about nine years to the day since I started on this
2 job, Mr. Koyzan, and I am a little inclined to impose a
3 sentence that I have never imposed before ever, and that is
4 to suspend the passing of sentence and put you on probation.
5 The term will be that if you breach your probation, you come
6 back before me. I don't even know that is good in law, but
7 that's my inclination. I think, Mr. Koyzan, you can be a
8 good fellow. I met your wife and kids out there, I've seen
9 them, and I think you've got it made. The usual thing is
10 to put a person on probation to come back before any Judge.
11 But my inclination is to make it a term that if you breach
12 your probation you come back before me instead of a strange
13 Judge who has never seen you before. Are you willing to
14 take that? If you do something wrong again, you're going to
15 come back before me, and I'm going to be awfully sore. Can
16 you buy that? Is that fair enough? I guess not.

17 MR. KOYZAN: Yeah.

18 THE COURT: You think you might commit further offences,
19 do you?

20 MR. KOYZAN: Pardon?

21 THE COURT: Do you think you might commit further offences?

22 MR. KOYZAN: Kind of doubt it.

23 THE COURT: Pardon?

24 MR. KOYZAN: Kind of doubt that. I've got--I don't know.
25 I've got commitments now that I didn't have before.

26 THE COURT: You sure do. And I don't want to send you to
27 jail, and I don't want to fine you, because that will compli-

1 cate your commitments. Well, you have seen your record, a
2 couple of pages. I want to make it between you and I. I gave
3 you a break a year and a half ago. If I give you a break
4 now, you won't get another.

5 MR. KOYZAN: I understand that.

6 THE COURT: Well, what do you think? Or do you want to
7 go to jail or pay your fine and be done with it?

8 MR. KOYZAN: Well, I don't want to go to jail.

9 THE COURT: Or do you want to have the probation hanging
10 over your head for two years?

11 MR. KOYZAN: I'll go for probation.

12 THE COURT: You will keep your nose clean for two years?

13 MR. KOYZAN: I don't have a choice, I think.

14 THE COURT: You don't have any choice, Mr. Koyzan. Ms.
15 Boillat, you can see where I am going.

16 MS. BOILLAT: Yes, sir.

17 THE COURT: I am going to put you on probation, Mr. Koyzan,
18 and the term of it is for two years to keep the peace and be
19 of good behaviour. But you are not to be in any licensed
20 premises in the Northwest Territories for two years, which
21 includes The Gold Range, et cetera. Do you understand?

22 MR. KOYZAN: Pardon?

23 THE COURT: You are not to be in a licensed premises, that
24 is, a cocktail lounge, for two years. Do you think you can
25 comply with that?

26 MR. KOYZAN: Yeah.

27 THE COURT: All right. I convict you as charged and suspend

1 the passing of sentence, place you on probation for a period
2 of two years to keep the peace and be of good behaviour and
3 not to be in any licensed premises. I direct you be held
4 here in custody until the probation order has been prepared
5 and you have signed it. Mr. Tate?

6 MR. TATE: Sir, just for greater certainty, I wonder if
7 you might consider wording that not to be in any licensed
8 premise which sells liquor as opposed to just any licensed
9 premise?

10 THE COURT: No. I think licensed premise is defined in
11 The Liquor Act.

12 MR. TATE: As defined in The Liquor Act would be--

13 THE COURT: It is. Licensed premises, 2(10) means the
14 premises or place in respect of which a license is issued.

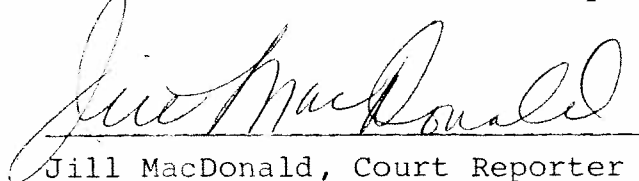
15 MR. TATE: Yes, I understand the intention. But, of course,
16 there are premises which are licensed which don't sell
17 liquor. I think if you worded it not to be in any licensed
18 premises as defined in The Liquor Act--

19 THE COURT: Very well. I so order.

20 MR. TATE: Thank you, sir.

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25 Certified a correct transcript,
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27 
Jill MacDonald, Court Reporter