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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

ELIJAH TASSUGAT

Transcript of the Oral Reasons for Judgment delivered
by His Honour Judge R. M. Bourassa, sitting at Clyde
River, in the Northwest Territories, on Friday,
March 29, A.D. 1985.

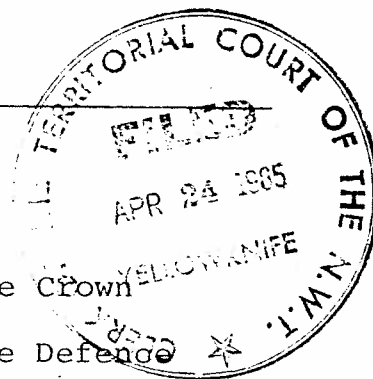
APPEARANCES:

MR. J. SUTTON

On behalf of the Crown

MR. J. BOVARD

On behalf of the Defence



1 THE COURT: Elijah Tassugat is convicted of an offence under
2 Section 85 of the Criminal Code, which is punishable by a
3 maximum of ten years in jail. Elijah Tassugat has been before
4 the courts many, many times. From 1976 and 1977, he was
5 convicted seven or eight times, and then for five years he
6 stayed out of trouble; and then in January of 1982, until
7 December of 1983, he was convicted another seven or eight
8 times. He was in jail five months, I would take it, on
9 the last occasion. When the court is faced with someone like
10 this, the usual response is that the person has to be treated
11 differently than one who has no criminal record or has
12 stayed out of trouble. The courts primary concern has to
13 be to maintain community peace; and someone who is drunk,
14 running around or endangering himself or others with a knife
15 is a danger to public peace. If the only way of protecting
16 the public is to put a man in jail for a period of months
17 so the public is protected because he is just not in the
18 community, then that has to be done. Sometimes it is also
19 necessary to put a man in jail so others understand that
20 when they are cut off a liquor order by the alcohol committee
21 that it's not for them to get drunked up and start fighting
22 and getting violent, especially with weapons.

23 I think the one distinguishing or important factor
24 in this case, apart from pleading guilty, is that the violence
25 was self-directed, at least on the information before me.
26 If I had any evidence at all or hint that the violence and
27 the violence that was within that man, Elijah Tassugat, on

1 the night of December 1 was directed toward other people,
2 that he had gone at another person with a knife, or a club
3 or a gun, then I don't think I could do anything else but
4 impose a jail sentence; and it would have to be a lengthy
5 one. People have the right to expect to be protected from
6 this kind of thing.

7 Once again, it's been a long time since this has
8 happened. I imagine most everyone has forgotten about it.
9 The accused has stayed out of trouble for the last fourteen
10 or fifteen months. I can't accept it in mitigation, but
11 on the other hand, I do have to take the man as he is today.
12 He is providing for his parents, and apparently also pro-
13 viding for a disabled brother. He is now realizing and
14 running into the problems that he has created for himself by
15 his antisocial behaviour in years past; and I'm sure it's
16 going to take him years to climb out of the hole he has dug
17 for himself, but he is trying.

18 I think with the violence being self-directed as
19 it was in this case that the emphasis of the court should
20 be on rehabilitation rather than deterrence. Suicide was
21 removed from the criminal law a long time ago. I can't see
22 that punishing this man by a lengthy sentence in jail will
23 accomplish anything. It may only recreate the emotional
24 environment that was present at the time he went berserk on
25 the first of December. If the accused has simply through
26 the passage of time reformed himself, rehabilitated himself
27 and recognized he was on the wrong path and now realizes he

1 has to change that path, then maybe the community will be
2 better off if the court's role is less interventionist.

3 Mr. Bovard, do I take it when you say your client
4 provides for his family, does he also provide country food?

5 MR. BOVARD: I assumed he did, because he was hunting, Your
6 Honour, but I'll double check that.

7 (MR. BOVARD CONFERRING WITH THE ACCUSED.)

8 MR. BOVARD: When he gets it, he does, Your Honour.

9 THE COURT: Once a month, once a year?

10 MR. BOVARD: He hunts twice a week, he says.

11 THE COURT: Once again, the court is faced with the problem
12 that if this accused is convicted, I have no choice but to
13 prohibit him from owning or possessing a firearm for five
14 years; and as I have mentioned, I think on another case we
15 had that was similar to this, it just doesn't make sense.
16 It's almost unbelievable that that kind of consequence would
17 follow from this fact situation. It's so irrelevant. Posses-
18 sion or misuse of a firearm has nothing to do with the offence
19 at hand. On the other hand, I think I can't just ignore the
20 law.

21 A lot of the factors in this case are different
22 from the earlier case I dealt with, that of Mr. Panipak, but
23 I think after putting everything together a similar disposition
24 may be appropriate. I may be wrong, but if I'm wrong, I know
25 I'll be corrected.

26 For the reasons I have given--would you stand up,
27 please, Elijah?--what I'm going to do is direct that you be

1 discharged conditionally. Now, I want to make it very clear
2 to you that you're getting a break on this occasion. You've
3 had breaks in the past, and I wouldn't be hoping for any more
4 breaks in the future. If you've learned your lesson, if
5 you're going to stay out of trouble now forever, so much the
6 better. If you don't, I'm afraid if you're again convicted
7 of a serious offence, the courts will have no alternative but
8 to put you in jail; and everything you're trying to do now
9 will just go out the window.

10 I'm going to put the accused on probation for one
11 year, to keep the peace and be of good behaviour, he is not
12 to consume alcoholic beverages. I'm going to direct that
13 within a period of six months he pay five hundred dollars to
14 the Alcohol Education Committee to be used by them in public
15 awareness programs or public meetings for the demonstration
16 of the problems of alcohol abuse. Additionally, five hundred
17 dollars to the Hunters' and Trappers' Association, which is
18 to be used by them in assisting older people or disabled
19 people. I'm going to direct that this sum, one thousand
20 dollars, be paid within six months. Receipts filed with the
21 Clerk of the Court will be evidence of discharge of that
22 obligation.

23 I point out to Elijah that at the end of this one
24 year, if you have stayed out of trouble and complied with
25 the conditions I've imposed, you'll have no record of criminal
26 conviction. If you're convicted of breach of probation, then
27 the matter will not be resolved in that fashion. I also

1 point out to you, if you are convicted of breach of probation
2 you will be liable to a maximum penalty of six months in
3 jail or five hundred dollars or both. Do you understand
4 that?

5 THE ACCUSED: Yes.

6 MR. BOVARD: Thank you, Your Honour.

7 THE COURT: You'll have to wait and sign some papers. Then
8 you'll be free to go.

9 (AT WHICH TIME THIS MATTER WAS CONCLUDED.)
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11
12 Certified a correct transcript

13 *Edna Thiessen*
14 Edna Thiessen, Court Reporter
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