



00057  
TCCR 84 012  
B+L

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

JOSEPH POODLAT

---

Transcript of the Oral Sentencing Delivered by  
His Honour Judge R. M. Bourassa, sitting at  
Yellowknife in the Northwest Territories, on  
Tuesday, February 28th, A.D., 1984.

---

APPEARANCES:

MR. M. ZIGAYER:

Counsel for the Crown

MR. C. ROGERS:

Counsel for the Defence





1 THE COURT:

2 This is a sad case as far as I am concerned.  
3 Joseph Poodlat, of all the people in the Eastern Arctic, has  
4 more going for him than I can think of: He has been given  
5 great skill in terms of artistic ability; He has a new son;  
6 He has qualities of leadership; He is intelligent, and he  
7 is on the road to ruining his life as a result of his  
8 addiction to alcohol. His community is afraid of him and  
9 doesn't want him in Spence Bay. It would appear that  
10 his troubles are all related to his gross addiction to  
11 alcohol and his total inability to handle alcohol. It  
12 appears that inwardly when he starts drinking he becomes  
13 a violent, aggressive person, totally different than what  
14 he is when he is sober.

15 In the eleven years since 1972 there have  
16 been over thirty convictions for criminal offences entered  
17 against this accused. I estimate that he has been  
18 sentenced to well over three, almost four years in  
19 terms of imprisonment.

20 As I say, he has talent. He has ability.  
21 He has intelligence, and it is all being squandered by  
22 him.

23 I can accept that Joseph Poodlat is not a master  
24 criminal. I don't think society has to be worried about  
25 him concocting some fantastic scheme to import drugs or  
26 to defraud a bank or a business, but I think where society  
27 has to be very afraid of Joseph Poodlat is when he is drink-  
ing and that is obviou in his record and obvious on the facts



1 before me.

2 The presentence report is one of the most extensive I  
3 have ever read. It covers every detail of the accused's  
4 antecedents. There were over twelve people contacted and  
5 interviewed with respect to the offender. There seems to  
6 have been a lot of effort made on the presentence report  
7 and it is of significant assistance. I only wish more were  
8 like this.

9 If there was some way that this court could separate  
10 Joseph Poodlat from alcohol, then I think it would be  
11 reasonably safe to project that his future would be rosey  
12 indeed. His son may very well have a good father, and his  
13 marriage might prove to be very long lived and productive,  
14 but there is just no way. It is impossible for this court  
15 or any court. In fact it is impossible for anyone to order  
16 Joseph Poodlat to stay away from liquor. That is something  
17 that is completely in his own hands. For all the people  
18 that will want him to stay away from liquor, I am sure  
19 he has as many friends in the woodwork who want to take him  
20 out for a drink. There is no order in this world that can  
21 be made that will separate him from alcohol. There is no  
22 place he can go in this world to be away from alcohol. There  
23 is no community in the Northwest Territories that is free from  
24 alcohol whether it is dry, controlled or open. As I say,  
25 that is something that is totally up to Joseph Poodlat which  
26 leaves a great degree of uncertainty in terms of sentencing.  
27 If it was a car and I could separate Joseph Poodlat from his



1 car, then I don't think a term of imprisonment would be  
2 called for, but this court, as I say, can't separate  
3 Joseph Poodlat from liquor which leaves the court left with  
4 the greatest concern, and that is the protection of the  
5 public.

6 From the presentence report it appears that Joseph  
7 feels that the police are picking on him. Yet, he admits  
8 that when he stays away from drinking people love him very  
9 much. People say he is okay. He admits when he is drinking  
10 that he scares people, and that he has played around with  
11 the law too much and that he is dangerous when he is drinking.  
12 Apparently Joseph has made the connection between drinking  
13 and his violent behavior or antisocial behavior, but has been  
14 unable, after recognizing the connection, to sever his  
15 relationship with liquor.

16 I think, therefore, given what is before me, I have  
17 to be concerned about the public and somehow protect them  
18 from Joseph when he is drunk. The Crown is urging a term  
19 of imprisonment of at least two years, obviously relying on  
20 the break and enter for that because the two assaults have  
21 been proceeded with by way of summary conviction. The last  
22 occasion that Joseph Poodlat was convicted of break, enter  
23 and theft he received in Spence Bay, and it was connected  
24 with another offence of break, enter and theft, and a breach  
25 of probation, and he received sixteen months imprisonment.

26 I can consider an order of banishment, prohibiting  
27 Joseph Poodlat from returning to Spence Bay for an appropriate



1 period under a probation order. That has been recently  
2 approved of by the Supreme Court of the N.W.T. in R. v. Sila.  
3 That kind of order has to be made very carefully, and it  
4 must not be one that simply dumps one community's undesirables  
5 into another community.

6 It is stated in the presentence report time and time  
7 again that the community and the people in the community  
8 are afraid of him when he is drinking. As I say, there is  
9 no way I can assure the community that he won't drink. I  
10 think I can note that Spence Bay is so far as the court is  
11 concerned a quiet community. The court does not have to go  
12 to Spence Bay very often. There is usually little trouble  
13 in Spence Bay requiring the Territorial or Supreme Court to  
14 attend. I think I have to look at the particular community  
15 if I am going to consider an order of banishment. That would  
16 certainly protect the people in Spence Bay. Whether it will  
17 drive Joseph Poodlat to further depression and more drink, I  
18 don't know. Whether it will drive home to him that he has  
19 reached the end of the line, I don't know that either. I would  
20 rather not speculate. Looking at the two assaults: they are minor.  
21 I recognize the accused has many previous convictions for assault and  
22 there appears to be a substantial fear in the community of  
23 him, I can only sentence on those two assaults based on the  
24 facts that are before me.

25 The previous record just means that there is nothing  
26 available in mitigation. With respect to the assaults, I  
27 cannot see that I have any justification for treating these



1 any differently than anyone else that comes before the court.

2 I take in aggravation that the accused has had the  
3 opportunity of correcting his behavior in the past and has  
4 declined to accept that opportunity. These are summary  
5 conviction offences, and the assaults, so far as they go,  
6 are relatively minor.

7 It is, as his counsel has suggested, very fortuitous  
8 for Joseph Poodlat that the Crown, for whatever reason, has  
9 proceeded with these charges in a summary manner. I have  
10 to scale the penalty on the maximums for summary conviction,  
11 which is \$500 or six months imprisonment or both.

12 With respect to the assault on the 24th of December,  
13 there will be a \$350 fine, in default, thirty days in jail.  
14 With respect to the assault on the 4th of January, I note that  
15 the accused was not on an undertaking at that time. I cannot  
16 therefore look at this offence as being aggravated because of  
17 that fact. I don't even know if he was charged with that  
18 previous offence at that time. I don't see how I can justify  
19 a substantially different disposition. On that matter there  
20 will be a fine of \$400, in default, forty days in jail.

21 That leaves the break and enter and theft. It is  
22 obviously the most serious of the charges, and carries with  
23 it a term of imprisonment to a maximum of life imprisonment.  
24 I cannot treat this lightly. This court has commented in  
25 the past that there has got to be some limits to how far the  
26 court will go with continuing break, enter and thefts. As  
27 I recall, the co-accused on the break and enter was sentenced



1 last week and received a short term of imprisonment. As I  
2 recall, he was sixteen and that was his first adult offence.  
3 I take the fact that there was a very young man going along  
4 with Joe Poodlat as an aggravating factor.

5 Given the accused's past record for break, enter and  
6 theft, I think a more significant sentence than those in the  
7 past is called for. The whole point of significant sentences  
8 on break, enter and theft is to bring home to people that  
9 they can't wander into other people's houses. The potential  
10 for violence when there is someone in the house is especially  
11 critical. One's mind is brought to a case in Nova Scotia, I  
12 believe it was, where two youngsters broke into a house and  
13 the occupant of the house, terrified, pulled out a gun and  
14 one of the youngsters was killed. That is the kind of  
15 violence and danger that people are inviting by breaking into  
16 a house, especially when they are occupied and that has to  
17 be deterred.

18 As I say, I reluctantly impose a significant sentence  
19 on Joe Poodlat, because I really don't think he is a master  
20 criminal, but society has to be protected from him until he  
21 decides that he is going to foresake the use of alcohol.

22 On the break, enter and theft, there will be a term of  
23 imprisonment of sixteen months.

24 I would like to hear from counsel as to their position  
25 with respect to an order of banishment, whether it is called  
26 for in the circumstances.

27 MR. ZIGAYER: Sir, I have no experience with orders of





1 banishment. I don't know if you banish a person from a place  
2 or to a place.

3 THE COURT: To a place.

4 MR. ZIGAYER: Sir, I really don't feel prepared to make any  
5 submissions.

6 THE COURT: Mr. Rogers?

7 MR. ROGERS: Sir, I would like to have an opportunity to  
8 review the Sila case that has been mentioned in court prior  
9 to making submissions on that particular aspect of sentencing.  
10 I understand it is a recent decision of the Supreme Court,  
11 but I would like to review it.

12 THE COURT: Well, I am not going to make the order. Does  
13 the accused require time to pay? The thirty days will be  
14 concurrent to the forty days in default of payment, but  
15 consecutive to the sixteen months.

16 MR. ROGERS: No time, sir.

17 THE COURT: Alright, payable immediately. Is that it then  
18 on this matter?

19 MR. ZIGAYER: Yes, sir.  
20

21 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED.)  
22

23  
24 Certified a correct transcript,  
25

26 Laurie Ann Young  
27 Laurie Ann Young  
Court Reporter