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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

R.S.K. (A Young Offender)

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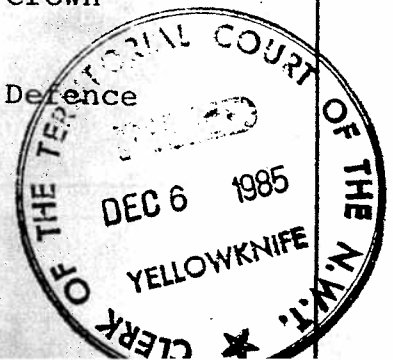
Transcript of the Oral Sentencing Delivered by His Honour Judge R. M. Bourassa, sitting at Coppermine in the Northwest Territories, on Monday, October 28th, A.D., 1985.

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APPEARANCES:

MR. J. LETELLIER Q.C.: Counsel for the Crown

MR. V. FOLDATS: Counsel for the Defence



1 THE COURT: The community's problems with R.K. could  
2 have been cut by two-thirds had he been kept in custody  
3 following his second offence on the 15th of July. That  
4 was clearly a breach of his undertaking. Had he been  
5 kept in custody at that time pursuant to the provisions  
6 of the Code he wouldn't have been around to commit these  
7 additional offences.

8 In any event, he was released and he continued to  
9 commit offences notwithstanding he was awaiting trial  
10 on the charge of theft and break and enter. He continued  
11 on a string of offences right up until the court virtually  
12 arrived here.

13 The youth, R.K., has been before the court before.  
14 In 1984 he was convicted of break, enter and theft. The  
15 matter was simply adjourned with no disposition. Later  
16 on in 1984, he committed a break, enter and theft again.  
17 This time he was given probation with community service  
18 work. In 1985 in March, he was convicted of possession  
19 of stolen property and received more community service  
20 work. He was also convicted at that time of a breach  
21 of probation, and the passing of sentence was suspended.  
22 Then in May of 1985, he was convicted of theft under and  
23 received more community service work. Obviously those  
24 dispositions had no impact on this young man at all.  
25 He is bound and determined to do what he is going to do,  
26 steal what he feels like stealing, and go where he feels  
27 like going regardless of anyone else's interests or rights

1 in the matter.

2 I cannot help but be concerned as to what is happening  
3 in Coppermine. There are seventy-seven charges on the  
4 docket, adult and young offenders. The number of persons  
5 involved is approximately ten percent of the population  
6 of this community. I don't know what is happening here.  
7 There are as many young offenders as there are adult  
8 offenders. It is astounding that a community this size  
9 sustains this kind of criminal conduct.

10 I don't think a suspended sentence or probation is  
11 adequate given all the offences before me, and given the  
12 nature of each of the offences, although some are more  
13 serious than others.

14 I am advised there are no facilities available  
15 for open custody, and I am quick to agree with Defence  
16 counsel that that is not a concern of the court. A concern  
17 of the court is to sentence according to proper principles  
18 and it is up to the executive to provide the mechanism  
19 for the execution of the court's orders. A failure to  
20 do so is an attack on the independence of the judiciary.  
21 The executive is bound to provide the methods and means  
22 of executing sentences imposed by the courts.

23 I am not of the view that a term of open custody  
24 would be wholly appropriate in this case. I have, of  
25 course, listened to the submissions with respect to the  
26 G.K. case carefully. It would seem to me that this particular  
27 case, given the long string of offences, the record, as

1 well, as the continuation of offences, notwithstanding  
2 awaiting for trial, distinguishes this matter from that  
3 matter, on the facts and while I can agree that there is  
4 nothing in the Young Offenders Act that says deterrence  
5 is a principle, I don't believe there is anything in the  
6 Criminal Code that says deterrence is a principle. That  
7 is to be found in case law.

8 I am unaware of any case that displaces the normal  
9 sentencing goals in dealing with young offenders, the  
10 normal sentencing goals that are found in case law with  
11 respect to the adults. I am, of course, acutely aware  
12 of the statement of principles at the beginning of the  
13 Young Offenders Act, and particularly Section 3(1)(a):

14 "While young persons should not in all instances  
15 be held accountable in the same manner or suffer  
16 the same consequences for their behavior as  
17 adults, young persons who commit offences should  
18 nonetheless bear responsibility for their contra-  
19 ventions."

20 Something, in my view, has to be done by the nature  
21 of a short, sharp sentence to try and shock this boy into  
22 understanding that he has reached certain limits. In my  
23 view, that can be best accomplished by a term of secure  
24 custody.

25 Now, perhaps a few comments with respect  
26 to each of the charges, dealing with the theft of the  
27 rifle, if every boy who ever took someone's gun to shoot  
off a box of ammunition was charged with a criminal offence  
and brought to court, I am afraid very few of us would

1 escape the net. I can't in any way classify that as a  
2 greatly serious offence. While it was an offence strictly  
3 speaking, and the youth didn't have permission, and I  
4 suppose technically stole the rifle, it is not an offence  
5 that in any way warrants a term of custody.

6 With respect to the break, enter and theft at the  
7 Coppermine Inn, that is probably the most serious offence  
8 that this youth has before him. He has been convicted  
9 of break and enters in the past. He is well aware that  
10 this is not acceptable behavior. The break and enter  
11 showed skill. It showed daring and it certainly showed  
12 an inalterable intent that would not be deflected by locks  
13 or barred doors. This boy was going to steal liquor  
14 and he was going to steal whatever else he could get his  
15 hands on. On that charge there will be a term of secure  
16 custody of six months.

17 With respect to the theft of the bottle of liquor  
18 from his father, if his father wants to keep liquor in  
19 his house I don't see why his son should be brought to  
20 court and charged with an offence of stealing liquor.  
21 If his father doesn't want his son to drink, he might  
22 think of not keeping liquor in the house. On that charge  
23 there will be one day secure custody concurrent.

24 With respect to the theft of the rifle there will  
25 be one day in secure custody concurrent. With respect  
26 to the mischief charge under Section 387(3), again it  
27 just displays a very unhealthy attitude that this boy

1 is going to do what he wants to do regardless. There  
2 will be a term of secure custody of five days concurrent.

3 With respect to the charge of break, enter and theft  
4 in the amusement arcade, I am accepting from the facts  
5 that were read in to me that this youth was not necessarily  
6 the leader, that he was involved in the last two unlawful  
7 entries, but not in the planning and execution of the  
8 first entry which I would categorize as being the head  
9 of this unlawful act. On that offence there will be a  
10 term of six months secure custody concurrent.

11 With respect to the 133 matter, there will be five  
12 days concurrent.

13  
14 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED.)  
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16  
17 Certified a correct transcript,  
18

19 Laurie Ann Young  
20 Laurie Ann Young  
21 Court Reporter  
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