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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

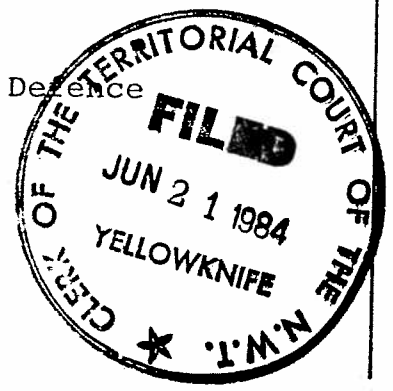
RICHARD ALLEN ANDRE

Transcript of the Oral Sentencing Delivered by His Honour Chief Judge J. R. Slaven, sitting at Inuvik in the Northwest Territories, on Tuesday, January 17th, A.D., 1984.

APPEARANCES:

MR. O. TROY Q.C.: Counsel for the Crown

MR. R. REID: Counsel for the Defence



1 THE COURT: It is a very sad situation to see a young man
2 with a record like this. The theft of the snowmobile and
3 the subsequent sale of it is a bit of a departure from
4 Mr. Andre's usual offences. He hasn't had a theft charge
5 or conviction since 1979 and 1981, but it was a serious
6 matter. It wasn't just a sudden impulse, I guess. He
7 had run out of gas. He called the owner of the skido who
8 he borrowed it from and then after that he got Mr. Peffer
9 and got it to him and got a hundred dollar cheque that
10 day and then a further \$400 the following day.

11 As for the occurrences in Arctic Red on the 22nd and
12 23rd of December, there are really three distinct areas.
13 The first three counts go together, the fourth is separate,
14 and the fifth is separate.

15 Looking at his record, he was convicted under Section
16 85 in July of this year and received a jail term of three
17 months for that. It seems to me I should go substantially
18 higher. But I feel I must look at the totality of the
19 sentence and I also must look at the totality for the
20 occurrences in Arctic Red on the 22nd and 23rd of December.

21 His breach of undertaking just exemplifies his
22 contempt for undertakings and probation orders that
23 he has shown numerous times in the past.

24 Stand up, Mr. Andre. I convict you of the false
25 pretenses charge re the cheque and cash from Harry Peffer
26 and direct you be imprisoned for a period of three months.
27 I convict you of the charge of stealing the snowmobile and

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direct you be imprisoned for a period of three months to be served concurrently. I direct that the \$110.45 found on your person at the time of your arrest be paid, after the appeal period has expired, to Harry Peffer. I won't make any further order for restitution. Mr. Peffer must have thought he was getting a bargain and he got a pig in a poke. As for the information with the five counts, I convict you of assaulting Peter Edward Ross and direct you be imprisoned for a period of two months to be served consecutively. I convict you of the charge of assault while carrying a weapon on count two and direct you be imprisoned for a period of four months to be served consecutively. That one brings into play Section 98(1). Pursuant to that section I order that you be prohibited from having in your possession any firearm, ammunition or explosive substance for a period of five years, the five years to expire five years from the time of your release from imprisonment. I convict you of the charge under Section 85, count three, for having in your possession a weapon, a knife dangerous to the public peace, and direct you be imprisoned for a period of four months to be served concurrently. Poor Mr. Norbert took quite a blow from the door frame, and you and another were having a fight and he got in the middle of it. Never the less, you shouldn't have picked up something like that to use as a weapon in the fight. I convict you of aggravated assault of Joseph Norbert and direct you be imprisoned for a period of one

1 month to be served consecutive. I convict you of the
2 assault, count five, and direct you be imprisoned for
3 a period of three months to be served consecutive. I
4 convict you of the breach of undertaking and direct you
5 be imprisoned for a period of one month to be served
6 consecutive.

7 That is a total of fourteen months consecutive and
8 six months concurrent. Did I miss anything, gentlemen?

9 MR. TROY: So that is a total of fourteen months, is it
10 sir?

11 THE COURT: Consecutive, yes, and six months concurrent.

12 MR. TROY: And what was the order under Section 98?

13 THE COURT: Five years commencing at the expiration and
14 on his release from imprisonment. On his release from the
15 expiration of all the terms I imposed today.

16 MR. REID: Your Honour, regarding that prohibition order,
17 Mr. Andre makes his living hunting and trapping, and I might
18 indicate for the record at this point that the Defence
19 may contemplate an appeal of that order.

20 THE COURT: Has Mr. Justice Marshall's decision been
21 appealed yet? Has the Appeal Court spoken to it yet?

22 MR. TROY: I understand it is being appealed, Your
23 Honour. I don't think it has come up yet. It probably
24 won't come up until June.

25 THE COURT: Well, I am not bound by it. I will say for
26 the record I don't agree with it. I feel that it was
27 compulsory on me to make the order after the conviction

1 under 245.1(1)(a) to give you something to hang your hat
2 on in the appeal, Mr. Reid. I will say I feel I had no
3 choice.

4 MR. REID: Yes, Your Honour.

5 THE COURT: And I won't go further, so if the Appeal Court
6 decides that I did in fact have a choice, they can then
7 consider factors in the individual case or send it back
8 to me, I suppose, to consider them. I suggest to you
9 you would have to show them more evidence regarding how
10 much time he actually spends hunting and trapping and
11 how much he makes from it and so on in the last few
12 years.

13 MR. REID: Yes, Your Honour.

14
15 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED.)
16

17 Certified a correct transcript,
18

19 Laurie Ann Young
20 Laurie Ann Young
21 Court Reporter
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