





1 Michael Pellissey is before this court convicted of  
2 four offences: one, break, enter and theft contrary to Section  
3 306(1)(b); two, an offence contrary to Section 3(1) of the  
4 Narcotic Control Act; three, an offence contrary to Section  
5 133(2) of the Criminal Code; and finally, an offence contrary  
6 to Section 62 of the Liquor Ordinance here in the Northwest  
7 Territories.

8 I am sure counsel are well aware of all the factors  
9 the Court can consider when imposing sentence, and that the  
10 High Courts have often remarked that difficulty is in trying  
11 to arrive at a balance of the various factors rather than  
12 identification of them.

13 I will deal first with the accused's criminal record,  
14 not because it is to be used to increase his sentence, but I  
15 think it can be used as a reflection of the accused's  
16 attitude and antecedents. This accused, since 1973, has been  
17 sentenced to a total of in excess of seven years in jail as a  
18 result of convictions for over 25 Criminal Code offences.  
19 They involve a gambit of commonly occurring offences; failure  
20 to comply with probation orders, failures to appear in court  
21 or comply with undertakings, assaults, breaches of probation,  
22 mischief, drinking offences, break and enters. Lastly, in  
23 September of 1982, possession of firearms and assaults causing  
24 bodily harm. If there was any hope of rehabilitation founded  
25 on something concrete before me today, I would obviously  
26 consider that and place some emphasis on it in my sentence.  
27 However, the accused has shown no inclination, as far as I



1 can see, as reflected by his record since 1973, to modify his  
2 criminal behaviour in any way. Therefore, I am content to  
3 leave the matter of rehabilitation to the administrative boards  
4 and tribunals that are set up within the penitentiary system  
5 and follow the observations of the Quebec Superior Court in  
6 R v. Levesque, 19 CR, p 43.

7 The accused has not been deterred by any of his sentences  
8 in the past, and he has received some sharp penalties for some  
9 of his criminal activities. He was released from imprisonment  
10 in November or December of 1982 for a break and enter, and  
11 within six months was back at it. He has had many occasions  
12 to appear before the Court in virtually every year except 1981,  
13 and as I have said, he has never been deterred. No sentence  
14 imposed on him to date has given any indication to the Court  
15 that Michael Pellissey is prepared to change his ways.

16 I think it would be fair to observe from his criminal  
17 record that he is more than a nuisance to the public; he is  
18 a danger to the public. He is someone who is bound and  
19 determined to do what he wants to do, regardless of how it might  
20 affect other people. In this particular case, it involved a  
21 break and enter at the El Camino Lounge.

22 Dealing with the break and enter, this Court observes  
23 that to date break and enters are the most common crime here  
24 in the Northwest Territories. They account for approximately  
25 one-half of all criminal convictions, and I think it is also  
26 fair to observe that the courts have, in the past, dealt with  
27 break and enters quite leniently. When one compares what



1 sentences are for break and enters in the Northwest Territories  
2 to those imposed on the first or second offenders in the south,  
3 it is startling to see the differences in treatment. A second,  
4 third, fourth or even fifth break and enter here in the  
5 Territories will usually result in a sentence of less than six  
6 months. A second conviction for break and enter in some  
7 jurisdictions will almost invariably result in a term of  
8 penitentiary.

9 I think there is nothing before me to indicate that this  
10 situation calls for special treatment, especially lenient  
11 treatment. I think the Court is justified in responding to  
12 the break and enter the way the courts in the south respond to  
13 break and enters. Michael Pellissey is well aware of the  
14 implications of break and enters as this is the second time he  
15 has been convicted of it.

16 One cannot use unsophistication or naivete or some of  
17 the other adjectives that are used in asking for leniency with  
18 respect to this accused person. I think the courts must  
19 attempt, as best they can, to redress the situation with respect  
20 to break and enters and send out a message very clearly that  
21 break and enters are a crime, that they call for a maximum of  
22 14 years imprisonment, and that the Court is not going to  
23 tolerate continued break and enters, regardless of whether the  
24 amount involved is small or large. Here, a total of \$335  
25 worth of goods were stolen. The final loss, after recovery by  
26 the police, being \$15 or \$30.

27 Dealing with the failure to appear in court. There is



1 not much point, I suppose, in saying very much to Mr. Pellissey.  
2 He is well aware of his responsibilities to appear in court as  
3 he has been convicted for the same offence on occasions in the  
4 past. Having been sentenced in 1976 for failure to appear, he  
5 was treated leniently; ie. \$250 fine. He was also sentenced in  
6 1979 for which he received two months in jail consecutive, then  
7 again in 1982 and received one month jail consecutive for  
8 identical offences.

9 Michael Pellissey, I am sure, is intelligent. He is  
10 aware of the consequences of failing to appear, he is aware of  
11 his obligations to appear in court, and he simply chooses not  
12 to bother. He made, apparently, half-hearted attempts, in that  
13 he states to his counsel that he tried hitchhiking back to Hay  
14 River from Rae/Edzo, but took no other steps whatsoever. That,  
15 in my view, would not amount to much by way of mitigation.

16 The accused is 25 years of age. He is well aware of  
17 his responsibility in terms of answering to court process. I  
18 believe that the 133 matter merits a significant consecutive  
19 term of imprisonment, in excess of what he was last sentenced  
20 to. Mr. Pellissey is virtually thumbing his nose at the  
21 Court.

22 With respect to the Liquor Ordinance offence and the  
23 Narcotic Control Act offence, I do not see that they should be  
24 dealt with much differently than they are normally dealt with  
25 in this court. I would note, however, and it is an aggravating  
26 factor, that the subsequent offences occurred after he was  
27 released on the first offence of break and enter.



1 I am taking into account what has been said with respect  
2 to the degree of premeditation. There must have been some  
3 planning involved. There was no violence. With respect to  
4 the participation alleged by Michael Pellissey, the gravity,  
5 which I indicated at the outset I consider it to be a grave  
6 matter, a serious matter, and not one that can be dismissed  
7 lightly by the courts. Also taking into account the accused's  
8 criminal record, as indicated earlier, his age, his character  
9 as reflected in the criminal record, and taking totality into  
10 account, (I would prefer to deal with sentencing consecutively  
11 because I am concerned that it be understood by Mr. Pellissey  
12 that when he ignores court process that will not be treated  
13 lightly. However, I think it is more appropriate for the Court  
14 to deal with the sentencing by way of one global sentence. I  
15 hope that Mr. Pellissey will make the distinction in his mind  
16 when he is serving his time.)

17 Mr. Pellissey, would you stand, please. For the break  
18 and enter, I sentence you to two years in Federal penitentiary.  
19 For the 133 offence, I sentence you to four months in jail,  
20 concurrent. For the Narcotic Control Act offence, I impose a  
21 fine of \$200, in default, 20 days in jail concurrent. With  
22 respect to the Liquor Ordinance, I impose a fine of \$25, in  
23 default, 10 days in jail.

24 Does the accused require time to pay the fines, Mr.  
25 Johnson?

26 MR. JOHNSON: In view of the sentence, it is unlikely he  
27 will be paying the fines, your honour.

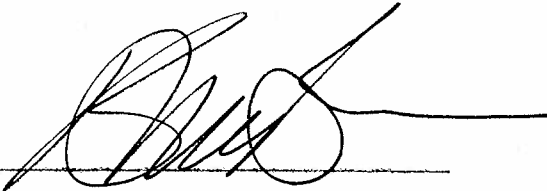


1 THE COURT: Thank you. I take that to mean he does not  
2 require time. Is that everything for this afternoon?

3 MR. GATES: Yes, it is. Thank you, sir.  
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R. M. Bourassa,  
Territorial Court Judge