

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

PATRICK ANDREW MCLEOD



The transcript of the sentencing held before His Honour, Judge T. B. Davis, sitting in Inuvik in the Northwest Territories, on Tuesday, November 15th, A.D., 1983..

APPEARANCES:

J. SHIPLEY: Esq.

Counsel for the Crown

R. REID: Esq.

Counsel for the Defence

1 THE COURT: Patrick McLeod has entered pleas of guilty to two
2 charges to be dealt with by the Court admitting that on the
3 4th of September, 1983, at Inuvik, in the Northwest Territories,
4 he stole money and a ball cap from Manuel Norman (phonetic)
5 and at the time he assaulted Mr. Norman, contrary to Section
6 303 of the Criminal Code.

7 He has also admitted that on the 3rd of September in the
8 Town of Inuvik in the Northwest Territories, he committed an
9 assault on Barb Corsair (phonetic), contrary to Section 245 (b)
10 of the Code.

11 The accused is 21 years of age and has a common-law wife
12 and a seven month old son, both of whom are now living in Tuk-
13 toyaktuk. He has grade eight or nine education and has been
14 a labourer when work has been available to him in the past.

15 The two matters before the Court are both serious charges
16 under the Criminal Code and I just want to quickly review some
17 of the factors that I must take into consideration in sentencing
18 the accused. As noted, the protection of the public is the major
19 factor and sentencing that is suitable as a deterrent to the
20 accused and others, so that the same crimes will not be committed
21 in the future, must be considered and therefore, substantial
22 enough that it is a reminder to all concerned that crimes must
23 not take place.

24 I also must consider therefore the punishment to be im-
25 posed on the accused to ensure that there is a factor of deterrence
26 I have to balance those factors of course with the consider-
27 ation for the individual himself and therefore his

1 reformation and rehabilitation and ensure that the penalty
2 imposed would not be such that the accused would not have some
3 hopes at rehabilitation.

4 He still is a relatively young man and therefore, there is
5 always the hope that reformation would be possible. The
6 matters relating to those general factors that are considered
7 by the Court are such things as the circumstances surrounding
8 the offence itself, the gravity of the offence and the maximum
9 sentences suggested by the Parliament of Canada for the type
10 of offences.

11 I have to consider the attitude and the character of the
12 accused, his previous record, if any, his mode of life, the
13 age and recommendations made by social workers or persons in
14 presentence reports who have made some inquiries into the
15 details and actions of the accused.

16 I found it was helpful to refer to the Court decisions
17 that have been presented by Counsel today so that any sentence
18 imposed should be within the range of other sentences for
19 similar offences and avoid improper disparity of sentences.
20 The presentence report as prepared indicates that the accused
21 feels badly about assaulting an older person and in fact,
22 defenceless, but that he had been drinking at the time of that
23 offence. The accused appears to have come from a good family
24 but has had some difficulty with the law in the past.

25 From the review of the cases and from general knowledge,
26 Courts have imposed sentences that have ranged from very short
27 to long terms of imprisonment for robberies with violence and

1 for assaults and it is difficult to know exactly what would be
2 appropriate, although I do feel it's necessary to consider
3 imprisonment of the accused in these matters.

4 I do note as pointed out by Counsel that no weapon was
5 used in either of these offences, but that the victim was
6 an elderly person who was at the time in a cast and unable to
7 protect himself and that the other victim of the assault was
8 a female. It is not the first offence concerning assault by
9 the accused since he had an assault charge in 1979 and his
10 record does show that there is a lack of respect for the
11 administration of justice in failing to appear in Court on
12 previous occasions.

13 There is some lack of respect for other people's property
14 in two other convictions relating to property offences. If
15 it were not for the fact that the presentence report suggested
16 that there are rehabilitative types of programs available in
17 association with the Yellowknife Correctional Center, I'd have
18 seriously considered sentencing the accused to penitentiary
19 which means for more than a two year term in jail. However,
20 because the presentence report does recommend that the accused
21 is sorry that the matters have occurred and since it has in-
22 dicated that there are programs that should be available to
23 the accused, I'm going to impose jail terms of less than
24 penitentiary, but only less than that because of the recommen-
25 dations being made, otherwise, it would definitely have been
26 longer than penitentiary minimum.

27 Under the circumstances then with regard to the charge of

1 stealing and assaulting, stealing from and assaulting Mr.
2 Norman, I'm going to impose two years less one day to be
3 served in the Yellowknife Correctional Center and on the charge
4 of assault, I'm going to impose a term of four months to
5 run concurrently to the other offence.

6 Do you understand that, Mr. McLeod?

7 ACCUSED: (Nods yes)

8 MR. SHIPLEY: Your Honour, I'd be remiss if I did not remind
9 Your Honour of the provisions of Section 98 (1) of the Criminal
10 Code.

11 THE COURT: That's the provision with regard to firearms,
12 ammunition and explosive substances for a period of five
13 years?

14 MR. SHIPLEY: Yes, Your Honour.

15 THE COURT: I believe I'm required because of violence being
16 used in a commission of an offence to impose an order of
17 prohibition for a minimum of five years on firearms, ammunition,
18 and explosive substances which order will be, I'm directing
19 to be enforced.

20 MR. SHIPLEY: And as well, I understand that a total of \$67.85
21 has been seized from Mr. McLeod. I understand that \$55.00
22 of that money belongs to Mr. McLeod and the balance belongs
23 to the victim of the robbery, Mr. Manuel Norman (phonetic).
24 I'd ask that the money be directed upon expiration of the
25 appeal period.

26 THE COURT: I shall so order that the monies held shall be
27 returned to the proper owners noting that Mr. McLeod is

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

entitled to \$55 out of the money held, upon the expiry of the ordinary appeal period relating to the charges.

Is there anything else on this, gentlemen?

MR. SHIPLEY: I don't believe so, Your Honour.

MR. REID: No, Your Honour.

(AT WHICH TIME THIS PROCEEDING WAS CONCLUDED)

Certified a correct transcript,



Brenda MacDougall

Court Reporter