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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

LEVI KAUNAK

Transcript of the Reasons for Judgment of His Honour
Judge R. M. Bourassa, sitting at Yellowknife in the
Northwest Territories, on Tuesday, November 15
A.D., 1983.



APPEARANCES:

MR. G. BICKERT: Counsel for the Crown
MR. G. PHILLIPS: Counsel for the Defence



1. THE COURT: Levi Kaunak is convicted of five offences
2 today: An offence under Section 67(1) of the Liquor
3 Ordinance; two counts under Section 306(1)(b); and two
4 counts under Section 666(1).

5 It is sad to say that Levi Kaunak would appear to
6 represent an all too common occurrence in this court, and
7 that is a young man who without any regard whatsoever to
8 the rights of people and their property, or the rights
9 of the community and its property, and without any regard
10 to his obligations as a citizen, his special obligation
11 to the court while on probation, commits break and enters and
12 continues in the pattern of behavior that brings him in
13 conflict with the law.

14 He is only sixteen, and although young in years, I
15 have no doubt and no hesitation in concluding that he is
16 an adult in every sense of the word, and can be treated as
17 such.

18 I believe him to have a sense of maturity that comes
19 with people being on their own here in the north something
20 seen more frequently here than in the south.

21 In any event, he is convicted of serious offences,
22 and this court has repeatedly stated in the past that there
23 has to be an end to this kind of behavior, this kind of
24 gratuitous break and enter.

25 Levi Kaunak was before this court in February of 1983
26 for an identical offence of break and enter and theft. At
27 that time he was given one day in jail which was served by



1 him being in court, and he was admonished to obey the law,
2 to stay out of trouble because the door to jail was open to
3 him, and that a longer jail term would be imposed if
4 necessary in the future. He was placed on probation and
5 ordered to do some community service work. I am advised
6 that he performed the community service work, but in every
7 other respect, Levi Kaunak was a failure with respect to
8 probation. Not only did he consume liquor while under age in
9 May and breach his probation, but while on his probation and
10 while under process for those two offences, he went out and
11 committed two break and enter offences and a further breach
12 of probation.

13 It is obvious that the lenient treatment and the
14 admonishment and the efforts I am sure were extended to him
15 by probation services have had no impact on him whatsoever
16 in terms of deterring him or rehabilitating him.

17 I have commented in the past that break and enter
18 offences are in epidemic proportions here in the Northwest
19 Territories, and in my estimation the courts have to start
20 imposing more severe sentences than in the past. It is quite
21 common in cases such as Mr. Kaunak to see criminal records
22 with one break and enter with lenient treatment such as he
23 received followed by another four or five break and enters
24 with small increments of punishment from one day in jail to
25 one month to two months to three months, and those small
26 increments of punishment do not seem to have had the effect
27 of deterring people from committing break and enters. I don't



1 intend to follow that pattern that in my view has not worked
2 in the past in deterring people like Levi Kaunak.

3 I take into account that he has been imprisoned for
4 the last two months awaiting the disposition of this
5 matter, but I have to take that into account tempered by
6 the fact that he is awaiting disposition of these charges
7 in jail as a result of his own activities, as a result of
8 his own refusal to comply with the terms of his interim
9 release, and not for any other reason. I think in those
10 circumstances an accused's plea that his time already
11 served be taken into account must be diluted somewhat.

12 I take into account the accused's age. I take into
13 account the fact that the accused has only one previous
14 conviction although these convictions follow that conviction
15 by a matter of a few months.

16 I think it is very important that the court make a
17 point with Levi Kaunak and a point that is understood by
18 him and a point that is understood by others that are
19 similarly inclined. This kind and pattern of behavior will
20 not be tolerated.

21 I take into account that the aggravating factors,
22 the break and enters which are the more serious of the charges
23 I am dealing with, were committed while he was on probation
24 and while he was under process with respect to the other
25 charges. Also that they were committed with some forethought
26 and planning by somehow obtaining a key and copying that key
27 and using it. I take into account the value and the nature



1 of the goods stolen and their ultimate disposition.

2 I take into account that they both occurred at the
3 same time and it would be appropriate therefore to treat
4 them concurrently **in terms** of sentencing. With respect to
5 the Liquor Ordinance offence; while the Crown has said
6 that it is aggravating that this took place in a community
7 that is attempting, through its own alcohol committee, to
8 restrict the consumption and use of alcoholic beverages,
9 I can only accept that to a degree.

10 Levi Kaunak, would you stand, please. On the Section
11 67(1) of the Liquor Ordinance offence, I impose a fine of
12 \$25, in default, five days in jail. With respect to the
13 breach of probation, I sentence you to thirty days in jail.
14 I make that sentence particularly significant in my
15 estimation to bring home to Levi Kaunak that when he makes
16 a promise to the court that he has to keep that promise.

17 With respect to the Section 306(1)(b) offence at the
18 Community Hall Warehouse, I sentence you to one year in
19 jail. With respect to the break and enter and theft into
20 the Hamlet Warehouse, I sentence you to one year in jail
21 concurrent. With respect to the breach of probation, I
22 sentence you to thirty days in jail concurrent. I direct
23 that a copy of these remarks be transcribed and forwarded
24 to the Hamlet Council in Hall Beach and translated into
25 Inuktitut, and as well to the R.C.M.P. detachment in Hall
26 Beach. I think that is the minimum step the court should
27 take in view of the fact that this accused is from there.



1 MR. BICKERT: Thank you, sir.
2 THE COURT: Is that everything for this afternoon?
3 THE CLERK: Time to pay for the \$25 fine?
4 THE COURT: I am sure the accused doesn't require time to
5 pay the fine, Mr. Phillips. It is concurrent time.
6 MR. PHILLIPS: That's satisfactory, sir.
7

8 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED.)
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Certified a correct transcript,

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14 Laurie Ann Young
15 Laurie Ann Young
16 Court Reporter
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