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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

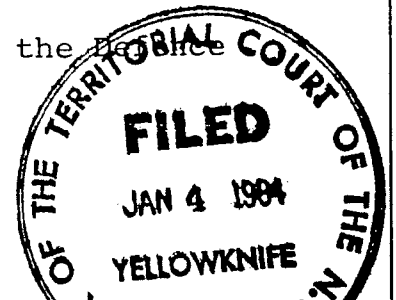
MALLE

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

APPEARNCES:

MS. N. BOILLAT: Counsel for the Crown

MR. G. PHILLIPS: Counsel for the Defence





1 THE COURT: Malle is convicted of three offences: Theft
2 under two hundred dollars, break, enter and theft, and
3 possession of a narcotic. I won't spend a long time reading
4 his record. Suffice it to say that there is in the
5 neighborhood of sixty or more criminal convictions of the
6 same nature as the ones the court is dealing with today.

7 The problem is what we do with Malle. A long time
8 ago a court could have ordered Malle to be placed in
9 stocks or to walk around with a sign around his neck saying
10 "thief" so the public could avoid him. We can't do that now.
11 In some countries, even today, they cut off the hand that
12 steals. That might work in this case, but we are beyond
13 that kind of punishment in Canada.

14 The only thing that this court can do with this
15 offender is probation, a jail term, or a fine. In my view
16 a fine is pointless in this instance; The default time will
17 be taken in lieu of payment. Probation is long gone as a
18 reasonable alternative; Jail has done absolutely nothing
19 for society or for the accused. Society is protected, I
20 suppose, for the time he has been in jail, but it certainly
21 hasn't modified or corrected the accused's behavior in any way.
22 It has definitely not deterred him.

23 I note that the most the accused has received is one
24 year in jail at a time. That is subject to a thorough reading
25 of the record.

26 It would seem to me that given the grave number of break
27 and enter and theft offences the accused is convicted of, I



1 believe this court would be justified in sentencing the
2 accused to a lengthy term of imprisonment in a penitentiary.

3 As far as I can see there is no hope of rehabilitation
4 for this man at forty years of age. There is no hope for
5 that. One is tempted to pooh-pooh the break and enter by
6 saying it is just \$160 and it is just a continuation of
7 nuisance behavior, but on the other hand, it is an offence
8 punishable by life imprisonment.

9 The theft of the two sunglasses is picayune. The
10 circumstances surrounding the Narcotic Control Act offence is
11 not at all different than those surrounding his past 3(1)
12 convictions.

13 Malle is a nuisance. Malle is a pain in the neck.
14 Malle must fall into one of those categories of people
15 that are sent down here by God to trouble us and use up the
16 tax payers' money and the resources of the state, and now
17 Malle invites us to put him back in jail for the winter.

18 It seems to me that this court can only do one of two
19 things: one is to put Malle away for a term of imprisonment
20 for at least three years in a federal penitentiary, or to do
21 nothing. If Malle is in fact a social problem, then
22 unfortunately he is going to have to remain a pain in the
23 neck to society and jail is inappropriate. If he is a
24 master criminal, then certainly he belongs in this court
25 and in jail for a long time.

26 I am at a loss as to what to do with him - I believe
27 him to be a social problem rather than a master criminal.



1 It is obvious from past dealings with Malle in this court
2 and looking at his past record, that Malle goes on binges,
3 and while on binges, he does stupid things. He finds himself
4 in court and is usually given a short term of imprisonment,
5 and then shortly after release, he is again back in court.
6 If the businessmen in Yellowknife aren't going to protect
7 themselves from Malle, I don't think they can look to the
8 court to protect them. They are going to have to protect
9 themselves and refuse him admittance to their businesses.
10 The police can't, and the corrections system cannot "correct"
11 Malle.

12 We will try it one way, and if that doesn't work, we
13 will try it another way.

14 Malle, would you stand, please. On the Section 294
15 offence, I sentence you to one day in jail served by you
16 being here today. On the Section 306(1)(b) offence, I
17 sentence you to one day in jail served by you being here
18 today. On the narcotics offence, I sentence you to one day
19 in jail served by you being here today. You are free to go.

20 MR. PHILLIPS: Thank you, sir.

21

22 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED.)

23

24

Certified a correct transcript,

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Laurie Ann Young

Laurie Ann Young

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Court Reporter