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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

v.

ANTHONY RABESCA

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Transcript of the Oral Sentencing delivered by His Honour Judge R. M. Bourassa sitting at Yellowknife, Northwest Territories, on Thursday, January 27, A.D. 1983.

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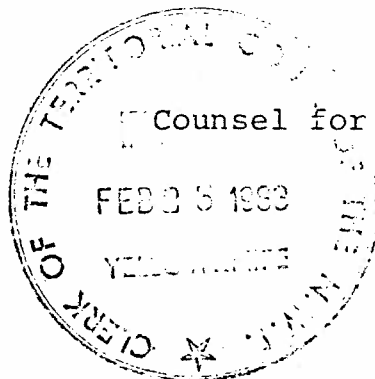
APPEARANCES:

MR. J. SHIPLEY

Counsel for the Crown

MS. C. MEIKLE

Counsel for the Defence





1 THE COURT: The court is dealing with Anthony Allen Rabesca, a  
2 16-year old adult, who is convicted in this court of four  
3 offences of break, enter and theft, and one offence of  
4 breaking his promise to the court.

5 Mr. Rabesca was arrested, as I understand it, on  
6 the third of December, 1982, and today is the 27th of January  
7 1983. Mr. Rabesca has been in custody throughout this period.

8 There is a pre-sentence report prepared and filed  
9 with the court, and the facts brought forth by that report  
10 clearly differentiate this case from anything that is normally  
11 dealt with in this court in that the accused, Anthony Rabesca,  
12 is mildly retarded. He has basically no education, and it  
13 would appear to me to have gotten into criminal difficulties  
14 as a result of manipulation by other persons. There may even  
15 be a question as to whether he can form a criminal intent.

16 Although this was not an issue and it is not raised  
17 in defence, it is obviously a concern, and I can only indi-  
18 cate that I am most disappointed that while this young adult  
19 is accumulating some fifty days in jail, the powers that be  
20 cannot arrange for psychiatric assessment which would pro-  
21 bably take one or two hours.

22 I think that is pretty discouraging to those  
23 involved in the criminal justice system in trying to assist  
24 their clients or assist the Court and have this Court respond  
25 meaningfully to a particular offender.

26 In any event, from what has been said to me by both  
27 the Crown attorney and the defence, I am certainly satisfied



1 that the Court is not dealing with a master criminal; and in  
2 fact, the court is not dealing with a criminal problem,  
3 rather it appears to have on its hands a social problem, that  
4 is a young man who has some disability and who is receiving  
5 no guidance or assistance or direction from his family or  
6 from his community.

7 The courts, I believe, are reasonably well able, and  
8 the criminal justice system is reasonably well able, to take  
9 care of criminals, but it is woefully ill-equipped to deal  
10 with social problems like this.

11 It would appear, and I hope I am not going too far  
12 with appearances, but it would appear to me that this young  
13 man needs a mother or a father or a sister to take care of  
14 him. He needs the community to take care of him and keep  
15 him out of trouble. The police cannot do it, and the only  
16 thing the Court can do is put him in jail, which is a  
17 travesty in my mind.

18 I do not think that it is right or proper that this  
19 young man be dumped into the criminal justice system. While  
20 I am new to the North, and I have many things to learn, I  
21 understand from doing some reading and some listening that the  
22 cultural history of the Dogrib tribe is such that the  
23 community takes care of each other; they share and help each  
24 other.

25 Well, if that is so, then it is time that the  
26 community get together and work on this problem and provide  
27 this young man with some direction and some guidance other



1 than what he has been getting that brings him into the crim-  
2 inal justice system. It seems to me that the elders and  
3 the community leaders in Rae-Edzo or this young man's family  
4 can do a lot more to protect the community of Rae-Edzo from  
5 further trouble that this young man may get into by taking  
6 care of him themselves and keeping him away from people who  
7 get him into trouble.

8 If I am not mistaken, if this is the tradition  
9 of the Dogrib tribe, then it should not be very hard to do,  
10 and it will be a lot more successful than throwing this  
11 young man into a jail full of real criminals.

12 This young man has served, as I said already,  
13 50 some days in jail, and I am not prepared to leave him in  
14 jail any longer. It is not going to deter him, it is not  
15 going to rehabilitate him. It is not going to change him.

16 I believe it is unfair for people in Rae-Edzo  
17 to blame the police if this boy gets into trouble again or  
18 to blame the courts. This young man's trouble and difficul-  
19 ties can be solved by someone helping him from within the  
20 community, and if that help is there, I am sure he will not  
21 be back in the courts again.

22 Anthony Rabesca, with respect to the charge  
23 of breaking your promise, I sentence you to one day in jail  
24 served today. With respect to the break and enter of the  
25 Chief Bruno School, I sentence you to one day concurrent.  
26 With respect to breaking and entering and stealing in the  
27 house of Richard Bonnetrouge, I sentence you to one day in



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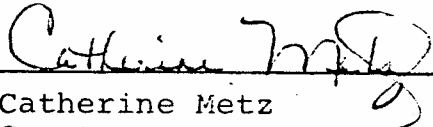
jail concurrent.

Similarly, with respect to the break and enter of the Rae-Edzo Housing Association building and the Rae-Edzo Hamlet workshop, one day in jail on each concurrent.

I direct you, Madam Reporter, to prepare a copy of my reasons and forward them to the Deputy Minister of Social Services as well as to the Chief of the Dogrib Band and the Settlement Council of Rae-Edzo.

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Certified a correct transcript

  
Catherine Metz  
Court Reporter