

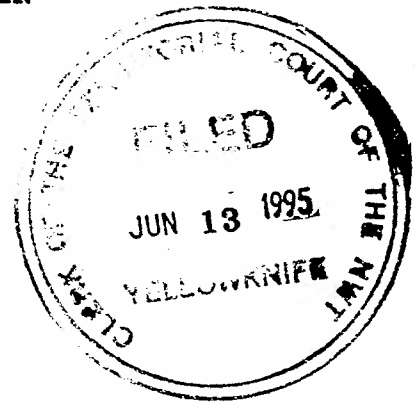
IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

JOHN SIMON ROLAND



Transcript of the Oral Reasons for Sentence of The Honourable Judge R. M. Bourassa, sitting at Yellowknife in the Northwest Territories on Monday, March 1st A.D., 1995.

APPEARANCES:

MR. D. JENKINS:	Counsel for the Crown
MR. T. McCAULEY:	Counsel for the Accused

(CHARGED UNDER s. 31(a) WILDLIFE ACT)
 (CHARGED UNDER s. 52(4) WILDLIFE ACT)

1 THE COURT: This is the John Roland matter.

2 MR. McCAULEY: Good morning, Your Honour.

3 MR. JENKINS: Good morning, Your Honour.

4 THE COURT: The accused pleaded guilty to a charge
5 of having in his possession a polar bear hide without
6 having the proper tag contrary to the provisions of
7 the Wildlife Act.

8 It appears from what was placed before me that the
9 accused is essentially a welder and for the last few
10 years has been supplementing his income by hunts.

11 The event of the 31st of March, 1994, was a kill
12 of opportunity. The accused was on the sea ice, saw a
13 polar bear, immediately started shooting at it, and
14 only after having killed it did he find that it was
15 accompanied by a cub and then he killed the cub. At
16 no time did he have a proper tag or permit as required
17 by law.

18 In my view, there are two features of the case
19 that require special consideration. First of all, the
20 protected species:

21 Polar bear populations don't number the same as
22 cariboo and the critical need to protect and carefully
23 manage the polar bears that exist in the Northwest
24 Territories, and in fact the world, is clearly set out
25 in the documents and international agreements and in
26 fact wildlife regulations and the regulations under
27 the Inuvialuit settlement arrangements. Everyone is

1 concerned from a management perspective on the
2 continued existence and viability of the polar bears.

3 The other aspect of this case that requires
4 consideration is that this was simply an opportunistic
5 kill. The accused knew a tag was required. He knew
6 from the moment that he started shooting at the bear
7 that what he was doing was illegal but he continued,
8 presumably seeing a quick profit. After shooting the
9 bear and cutting off the hide, the next day he
10 attempted to get a tag to retroactively justify his
11 actions.

12 The issue that I was particularly concerned with
13 is given these features whether or not a jail sentence
14 is required. I am grateful to counsel for the Crown
15 for their submissions and authorities that they
16 provided.

17 It appears that there recently have been a number
18 of decisions from southern jurisdictions that have
19 resulted in jail sentences for, if I can categorize
20 the offences generally, the illegal shooting of
21 wildlife particularly in cases of poaching.

22 In my view, the aggravating features here brought
23 the matter to the point where a jail sentence had to
24 be considered.

25 I take into account that the accused pleaded
26 guilty. I take into account that the accused is
27 apparently remorseful.

1 I also take into account that the Hunters and
2 Trappers Association, who have the responsibility of
3 distributing the tags, are also equally concerned
4 about this and have indicated in the materials before
5 me that their concern might be translated to some kind
6 of action in terms of increased vigilance or increased
7 care in the future.

8 I also take into account that this is the first
9 offence that I am aware of with respect to the
10 unlawful killing or harvesting of polar bears.

11 There have been a number of offences recently with
12 respect to wasting cariboo contrary to Territorial
13 legislation. There was an offence in Coral Harbour a
14 few years ago with respect to harvesting walrus
15 contrary to Federal legislation.

16 In that decision, R. v. Shimout, Mr. Justice de
17 Weerdt considered a variety of factors in sentencing
18 on charges of unlawfully killing walruses. He upheld
19 a probation order prohibiting the accused from hunting
20 for a period of time as being an appropriate response.

21 After considering whether or not a jail sentence
22 is required in law, I have come to the conclusion it
23 is not at this time. That is not to say that it
24 wouldn't be applicable under any circumstance but
25 simply not in this case.

26 It is hoped that the goals of sentencing,
27 denunciation and deterrence, can be met otherwise; and

1 they may be met by a probation order such as was
2 approved by Mr. Justice de Weerd in that case.

3 Therefore the decision of this Court is that the
4 accused pay a fine of \$900, together with a Victims of
5 Crime surcharge. If I can pause there for a moment
6 with respect to the quantity of the fine.

7 It's my view that the fine has to at least
8 represent more than what can be obtained by the
9 illegal harvesting of a hide. If the fine is less
10 than what the hide is worth, then it makes no business
11 sense to comply with the laws and regulations. That
12 consideration was present in my mind as I impose the
13 fine at that level. Also, I consider the financial
14 ability of the accused.

15 Secondly, I am going to place the accused on
16 probation for a period of 18 months. He is to keep
17 the peace and be of good behaviour. He is not to
18 apply, hold, or possess any "polar bear tag" or any
19 tag that would authorize him to hunt, shoot, or
20 harvest polar bears. In effect, I am prohibiting him
21 from hunting polar bears for a year and a half.

22 In default of payment of the fine, there will be a
23 period of imprisonment of three months.

24 Mr. McCauley, does your client need time to pay
25 the fine?

26 MR. McCAULEY: My understanding is that he would need
27 time, sir. Given the level of the fine, I am

1 requesting four months.

2 THE COURT: Four months to pay.

3 (AT WHICH TIME THIS SENTENCING HEARING CONCLUDED)

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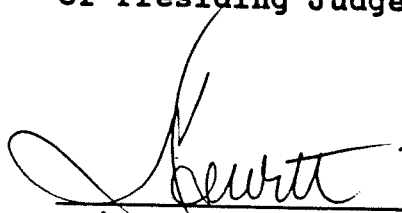
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Certified correct to the best of my
6 skill and ability, (Subject to Review
7 of Presiding Judge)

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Lois Hewitt,
12 Court Reporter

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