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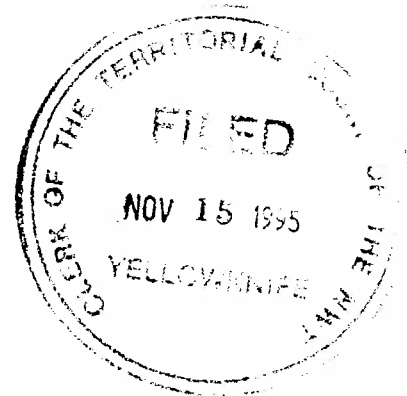
IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

JOSEPH KUDLAK



Transcript of the Reasons for Sentence held before the Honourable Judge R.M. Bourassa, sitting at Cambridge Bay, in the Northwest Territories, on August 30, A.D., 1995.

APPEARANCES:

MS. S. BOUR

On behalf of the Crown

MR. A. MAHAR

On behalf of the Accused

1 THE COURT: Well, I do not disagree with
2 submissions of defence that it is a personal tragedy
3 with respect to this accused. Again, I do not
4 disagree, but I would speculate with defence that if
5 Mr. Kudlak did not drink, he probably would not be
6 before the courts. He is asking an awfully big price
7 of people in this community for his drinking.

8 I look at his criminal record: Incest in 1995;
9 break, enter, and theft, two charges in 1988; sexual
10 assault in 1988; assault causing bodily harm in 1990.
11 On the last two, he got a year in custody. Failure to
12 comply with a probation order; 1991, assault with a
13 weapon, 18 months in jail; 1992, uttering a forged
14 document, and he was fined; 1993, arson and with
15 disregard to human life, 18 months in jail; 1994,
16 careless use of a firearm, possession of a firearm
17 while prohibited.

18 The man is dangerous. It is fine to say that he
19 is an alcoholic and he is sorry and he is going to go
20 to A.A. and all of those good things but in the
21 meantime, he is hurting people. He is hurting a lot
22 of people with his alcohol abuse, and he is hurting
23 them in significant ways. People do not get 18 months
24 in jail for assault causing bodily harm for a punch in
25 the nose.

26 This man when he is drunk is obviously dangerous.
27 He is a threat to the people in the community, and he

1 has hurt a lot of people. I think, with respect, he
2 is asking an awful lot if he expects everyone to pay
3 for his alcohol problem, which is he doing.

4 The obligation of the courts and the law is to
5 protect society. We are a society based on peace,
6 order, and good government. Courts have something to
7 do with peace and order, and I can only say that he is
8 asking too much, way too much.

9 I take into account he has pleaded guilty. With
10 respect to the offence of break and enter with intent,
11 going into a woman's house and standing by her bed at
12 night drunk, who knows what could have happened. As
13 it was, she woke up and he ran out. It could have
14 just as easily gone the other way. People in bed at
15 night are entitled to have some sense of security, and
16 they are certainly entitled to have the knowledge that
17 the courts will protect their personal integrity.

18 With respect to the charge of taking the gun, the
19 man has already proven by his convictions in the past
20 that he is capable of acts of great violence. This is
21 the second time now he has been convicted of
22 possession of weapons while prohibited. What does he
23 want the guns for? What does a violent, out of
24 control man want guns for? I will not speculate, but
25 the only reason can be frightening to members of the
26 community.

27 Again, I agree that it is really a tragic case.

1 That is looking at Mr. Kudlak. The Court has to look
2 at the community and society, and it is equally tragic
3 if not more tragic from that perspective. The society
4 and the community deserves to be protected from him.
5 We cannot wait for him to decide that he is not going
6 to drink anymore in terms of protection. I am taking
7 totality into account.

8 Stand up, please, Mr. Kudlak. On the charge of
9 break and enter with intent, there will be a term of
10 imprisonment of 18 months. On the charge of
11 possession of firearms while prohibited, six months
12 consecutive. On the charge of break, enter, and
13 theft, six months concurrent. On the charge of breach
14 of your undertaking, one month concurrent. On the
15 second charge of breach of undertaking, one month
16 concurrent. That is two years, Mr. Kudlak, in a
17 federal penitentiary. No victims of crime surcharge.

18 MR. MAHAR: Your Honour, could I ask the Court to
19 make a recommendation that he serve that time in the
20 Northwest Territories?

21 THE COURT: No, I am going to leave that to the
22 corrections authorities. There may be programs within
23 the federal system that will have more impact on him.
24 I will leave it at that.

25 MR. MAHAR: Thank you, Your Honour. Court's brief
26 indulgence.

27 Thank you, Sir.

1 MS. BOUR: If I can have a moment, Your Honour.
2 Your Honour, I just wanted to confirm, you did
3 sentence the accused on the one breach; is that
4 correct?

5 THE COURT: Well, yes.

6 MS. BOUR: Because one of the breaches was
7 withdrawn.

8 THE COURT: Yes.

9 MS. BOUR: Thank you, Sir.

10 AT WHICH TIME ANOTHER APPLICATION WAS SPOKEN TO

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Certified correct to the best
of my skill and ability

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Tara McCrae
Tara McCrae, Court Reporter

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