

TC CR 98 001

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- vs. -

TUKIQI KELLYPALIK



Transcript of the Reasons for Sentence of The Honourable Judge B.A. Browne, at Iqaluit in the Northwest Territories, on January 16, A.D., 1998.

APPEARANCES:

MS. D. ROBINSON:	Counsel for the Crown
V. FOLDATS, ESQ.:	Counsel for the Accused

Charges under s. 344 and 266 of the Criminal Code
of Canada

1 THE COURT: Just sit down for a minute,
2 please.

3 One of the saddest and most difficult things I
4 have to do in this job is to impose lengthy sentences
5 on young people such as Mr. Kellypalik and
6 Mr. Petaulassie. In deciding on proper sentences, it's
7 important for me to think about the reasons that we
8 have criminal law, and the most important reason that
9 we have the criminal law is to protect the public from
10 people who don't obey the rules. We require rules to
11 live in a civilized society, and if there is to be
12 peaceful life in communities, then individuals within
13 those communities must treat other people with respect,
14 and they cannot take what does not belong to them, and
15 in some incidents like we have in Court today, use
16 violence, serious violence, to take what does not
17 belong to them.

18 In this case, as in many that I deal with, I
19 somehow have to grapple with a very serious charge that
20 has taken place, and some, I guess I can describe as
21 very difficult circumstances that these two individuals
22 have found themselves in over the years. I don't
23 understand why those circumstances exist. It's not
24 really pointed out in the pre-sentence reports, but
25 it's clear that both of these young people have serious
26 substance abuse problems, both of these young people
27 have been in and out of court over many, many years,

1 and I know because I probably found them guilty and
2 sentenced them many times, that many efforts, and I
3 know that the Courts aren't good at helping people, but
4 many efforts over the years have been made by social
5 workers and others to try and get these two individuals
6 the help that they so desperately need. Unfortunately,
7 after all of those attempts at trying to get those two
8 people back on the right track, those efforts have
9 failed, and my job today is to impose lengthy sentences
10 because of the very serious crimes that these two
11 individuals have committed today. I only hope in
12 imposing those sentences that this time -- and
13 Mr. Kellypalik and Mr. Petaulassie, sometimes it's up
14 to you, it's clear to me that you have some issues in
15 your lives that you have to deal with, I can't tell you
16 what they are because I don't know -- but it's very
17 important if you want to continue your lives out of
18 custody after this time in jail that you get some help,
19 deal with those problems while you're in jail, so that
20 when you're released, you can become responsible
21 members of whatever community you decide to live in.

22 It's obvious that each of you needs some substance
23 abuse assistance, but that only works if you want to
24 get it. If you don't want help, nothing that anybody
25 does in the court or in the jail or in the community,
26 nothing is going to change unless each one of you
27 decides that you want to get some help and change the

1 way your lives are going right now.

2 I hope that all of the things that have happened
3 to you up until now and what happens in court today
4 will convince you to take some time to get some help
5 with the problems that I think you obviously have, so
6 that as I've said, you can return to Cape Dorset or
7 whatever community you decide to go to and live a
8 responsible life.

9 In figuring out what the proper sentence is in
10 this case as in other cases, it's important to
11 recognize the seriousness of the offence, and I don't
12 propose to repeat the facts. Obviously, the robbery at
13 the store with the hammer that both individuals were
14 involved is an extremely serious charge that demands a
15 lengthy sentence. Mr. Petaulassie also has a very
16 serious robbery charge of an older man in his home.

17 In recognizing those very serious charges that
18 demand lengthy sentences, it is also important for me
19 to recognize many of the things that the lawyers have
20 pointed out. Both of these individuals have pled
21 guilty to the charges at the first time they've had
22 extensive opportunities to speak with the lawyers, and
23 they haven't entered not guilty pleas or suggested that
24 these cases should go to trial. They have confessed at
25 the earliest opportunity and indicated an interest in
26 getting on with the court case, and obviously, the jail
27 sentence.

1 It is significant that both Mr. Kellypalik and
2 Mr. Petaulassie, but perhaps more so Mr. Kellypalik,
3 have cooperated with the police in their investigations
4 in bringing this matter to an early conclusion.

5 Both Mr. Kellypalik and Mr. Petaulassie have
6 lengthy criminal records, which are an indication that
7 their lives are out of control, but also an indication
8 that none of the efforts that have been made to help
9 them have reached any success.

10 Mr. Kellypalik, Mr. Petaulassie, stand up,
11 please.

12 Mr. Kellypalik, first of all, some personal
13 comments to you. I appreciate the things that you said
14 in court. I hope that you'll take that piece of paper
15 and keep it with you in your pocket all of the time
16 that you are serving your sentence, and every time you
17 are having trouble going to the programs and working on
18 the problems that we have talked about, I want you to
19 get out that piece of paper and read it through and
20 continue with trying to deal with the problems that
21 have led you to that place today.

22 I hope that when you are released, and if that's
23 to Rankin Inlet, I hope that that works for you. I
24 hope that in Rankin Inlet, you'll be able to stay out
25 of trouble, get a good job or carve. There are lots of
26 opportunities for you. I hope that you find something
27 worthwhile to do with the rest of your life.

1 In imposing the sentences today, I am aware of the
2 difficulties involved in sending individuals to the
3 penitentiary. I know that these individuals will be
4 away from their families and will probably not have the
5 benefit of personal visits. I've taken all of those
6 factors into consideration in arriving at the
7 appropriate sentence because I know that both these
8 individuals will do harder time than individuals who
9 have the ready access to family visits, ready access to
10 their culture and to country food, and I've reduced the
11 sentences somewhat having regard to those factors.

12 Mr. Kellypalik with regard to the robbery of
13 Russell Sanders, the sentence is two years in jail.

14 With regard to the charge involving the assault on
15 Mary Kellypalik, the sentence is four months
16 consecutive to that sentence.

17 On the documents that go with you to the jail, I
18 will make the following recommendations. I will make a
19 recommendation that you take a substance abuse
20 treatment program, but that you also attend life skills
21 or anger management programs if they are available, and
22 when you are finished serving your sentence that you be
23 released to Rankin Inlet. I will also recommend that
24 you have expressed a sincere interest in taking part in
25 the carving program at Yellowknife Correctional Centre,
26 and it may be if you discuss those recommendations with
27 the people who will classify you that you may be able

1 to spend some of your sentence in Yellowknife involved
2 in that program. There will also be a ten-year
3 firearms prohibition. You will be prohibited from
4 having any firearms in your possession for a period of
5 ten years from the date of your release from custody in
6 any community in the Northwest Territories.

7 Sit down, Mr. Kellypalik.

8 Mr. Petaulassie, some comments to you personally.
9 I hope that when you serve this sentence in the jail
10 that you will get involved in some treatment programs
11 that are offered to you. If you don't, I expect that
12 you and I will see each other again in a few years and
13 you may well return to jail. The lifestyle that you've
14 chosen for yourself at this stage is simply not
15 acceptable, and the only method that society has to
16 deal with people who want to do whatever they want is
17 to lock them up. It's up to you to change the way that
18 you treat other people and the way that you get your
19 access to money. If you don't change that, I expect
20 that you'll spend a good portion of your adult life in
21 jail. I know that you can change that if you want to,
22 but if you don't make some serious steps to change, I
23 expect that you will be in jail for a long portion of
24 your adult life. That's your choice. I think you can
25 change that choice if you want to.

26 I hope that you will think seriously about that.
27 You can learn a trade while you are serving the

1 sentence I'm going to impose today. Try and do that so
2 that you can go back to Cape Dorset, or some place else
3 if you want to, and start all over again. Make a new
4 life for yourself, put the reputation that you have now
5 behind you, and be a good guy in whatever community you
6 decide to live in. I know that you are capable of
7 that. I know that you can learn some good things while
8 you are in jail. I hope you take advantage of that
9 opportunity and make good use of it.

10 With regard to the robbery charge involving
11 Russell Sanders, the sentence is two years in jail.

12 With regard to the robbery charge involving
13 Mr. Qaqyuraqyuk, the sentence is one year in jail
14 consecutive.

15 With regard to the assault on Qatalik Shaa, the
16 sentence is four months consecutive.

17 With regard to the break-in at the Hunters and
18 Trappers Association, the sentence is two months
19 consecutive.

20 The total sentence that you will serve,
21 Mr. Petaulassie, is three and a half years. That gives
22 you lots of time to do something with your life.

23 With regard to the papers that go with you to the
24 jail, I will make a recommendation that you receive
25 substance abuse treatment while you're in jail and that
26 you are able to attend some life skills or anger
27 management courses. I will also put a recommendation

1 on the papers that go with you to the jail that having
2 regard to your age and the place that you are from that
3 they consider allowing you to serve at least a portion
4 of your sentence in the Northwest Territories.

5 In addition to that sentence, there will be a
6 firearms prohibition. You will be prohibited from
7 having firearms in your possession for a period of ten
8 years from the date you are released from jail. That
9 prohibition will be limited to any community in the
10 Northwest Territories.

11 It is important if either of these young men are
12 to put their lives together that perhaps their
13 connection to the Inuit culture will help them with
14 that. Firearms on the land are an important part of
15 that culture, and perhaps that will be what can help
16 them live a better life in the community.

17 Sit down, Mr. Petaulassie.

18 I'll direct the clerk to include the
19 pre-disposition reports that have been filed with the
20 papers that go to the jail so that they have as much
21 information about these two individuals as possible
22 when it comes to their classification.

23 (AT WHICH TIME THE PROCEEDINGS CONCLUDED)

24

25 Certified correct to the best of
26 my skill and ability,

27 

Tracey Hoffman,
Court Reporter