

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:



HER MAJESTY THE QUEEN

- and -

LEE SHANE ELIAS

Transcript of Oral Reasons for Sentence delivered by The Honourable Chief Judge R.M. Halifax, sitting at Yellowknife, in the Northwest Territories, on Tuesday, January 13, A.D. 1998.

APPEARANCES:

Ms. S. Aitken:	On behalf of the Crown
Ms. A. Davies:	On behalf of the Defence

(Charge under Section 145(1)(b) of the Criminal Code)

Filed Jan 19/98

1 THE COURT:

2 Mr. Elias, you have got quite a
3 criminal record, starting in 1984, as a young
4 offender. Since 1990, in the last seven years,
5 basically since you turned an adult, you have got eight
6 convictions for failing to comply with conditions of
7 orders, either release orders or probation orders, and
8 there are other property offences and drinking-driving
9 offences. The last offence, you were sentenced on the
10 17th of April, 1997, to 21 months and prohibited from
11 operating a motor vehicle for five years for an offence
12 of impaired driving causing bodily harm, and a further
13 two months consecutive for failing to comply with the
14 conditions of release; a total of 23 months. It just
15 kept you under the two years for pen time. Within four
16 months, you are released on temporary absences by the
17 Correctional authorities after basically one-sixth of
18 the sentence for an offence that the Parliament of this
19 country has treated very seriously and increased the
20 penalties over the last 15 years and our society has
21 taken very seriously. And you have got eight
22 convictions for not paying attention to court orders.

23 Somebody at Corrections has to really start
24 thinking about what they are doing here. The Court
25 gave a disposition April of 1997 that assuming in the
26 sentencing process is a fit and proper sentence. We
27 then have, by administrative procedures, that sentence
cut to one-sixth for somebody who obviously has a track

1 record for being a risk to breach it, and that's
2 exactly what happens.

3 Seems to me people responsible for the
4 administration of justice in this country cannot say on
5 the one side we have to take a tougher position with
6 people that are drinking and driving and causing bodily
7 harm and death and then, on the other hand, without
8 public scrutiny, turning around and releasing people
9 earlier. One-sixth of the sentence. In the amount
10 that he served between his jail term and the bush camp,
11 he is only now eligible even to apply for parole. It
12 seems to me that somebody has got to stop and think
13 about what is going on here.

14 This is the process because there is lack of
15 resources available for incarcerating people. But it
16 seems to me you cannot have it both ways. You cannot
17 on the one hand be asking and telling the public that
18 you are going to deal with these matters in a harsh
19 manner and then, on the other side of your mouth, start
20 releasing people out into the community without the
21 public being aware of it and no public accountability.

22 Obviously the government has a responsibility to
23 carry out the sentences of the Court. There is
24 obviously some question whether that is even being done
25 under these kinds of processes. It is interesting that
26 some bureaucrat can, in effect, be a Court of Appeal
27 and change the sentence to this degree without any

1 public responsibility or accountability. I think it is
2 important for the Court to make a statement about that
3 particularly because of the type of offence that is
4 involved here.

5 Now, of course Mr. Elias should not have to pay
6 the price for that, of course, in my view. If
7 Corrections Services is going to carry out these kinds
8 of policies, I do not expect Mr. Elias, like anybody
9 else, to not take advantage of them.

10 It seems to me there should be some comment made
11 by the Court when we are talking about impaired driving
12 causing bodily harm offences here. With the public
13 statements made by senior law officers in this country
14 and, basically, our society with regard to this type of
15 offence, that that seems to be ignored to a large
16 degree when I see only a sixth of a sentence being
17 served in the institution.

18 You knew full well, Mr. Elias, that you were told
19 that you would have to report back. You chose to take
20 off and not do what is required of you under your
21 release, and, obviously, at least you're going to be
22 serving the balance of the sentence as provided for by
23 law, I assume, without any early or any other temporary
24 absence because the question is you can't be trusted.
25 Of course, under the present provisions of the law,
26 that means you have got to serve two-thirds of your
27 sentence. Unbeknown to most people, regardless of what

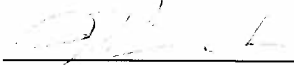
1 the Court says, it is only two-thirds of the sentence
2 that is served in the institution anyway. It should be
3 made very clear that this is a matter done through
4 Corrections and has nothing to do with the courts.

5 In my view, when you are given an opportunity like
6 this, Mr. Elias, you have to recognize the break you
7 are getting, particularly with your track record and
8 all the convictions you have got. I think, also, there
9 is a question of some general deterrence here. If all
10 inmates think they can just breach the terms of these
11 release programs without any repercussions, obviously
12 the programs are going to be of little or no success.
13 In my view, there has to be some general deterrence so
14 that not only you, Mr. Elias, recognize that this kind
15 of behaviour will have consequences, but any of your
16 other fellow roommates will realize as well.

17 Under the circumstances, I sentence you to three
18 months imprisonment to be served consecutively. Victim
19 of crimes surcharge in the course will be waived in the
20 circumstance. Obviously Mr. Elias has not been
21 employed for sometime.

22 So you get three months added on, Mr. Elias, for
23 what happened. That will be all.

24

25 Certified pursuant to Practice
26 Direction #20 dated December 28, 1987
27 
Jane Romanowich
Court Reporter