

2003 NWTTC A6

T-3-CR-2002001328

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

ALBERT JOHNNY KOE



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Transcript of the Reasons for Sentence delivered by The Honourable Judge B.A. Bruser, sitting in Fort McPherson, in the Northwest Territories, on the 8th day of January, A.D. 2003.

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APPEARANCES:

Mr. B. Lepage:	Counsel for the Crown
Mr. T. Boyd:	Counsel for the Defendant

(Charges under s. 267(b), 264.1(1)(a), 145(5.1) x2, and 92 of the Criminal Code of Canada)

1 THE COURT: Mr. Koe, do you have anything  
2 more to say?

3 THE ACCUSED: That's all I have to say for now.

4 THE COURT: That's quite a lot. It shows you  
5 do have some deep insight into your problems except  
6 you don't know why you beat her up. You say you wish  
7 this was a dream. I think what you really meant to  
8 say was that you wish it was a nightmare that would go  
9 away. Dreams are nice things usually. Nightmares are  
10 the bad part of a dream.

11 The sad fact is, and I think you can appreciate  
12 why I'm saying this, you are a danger to her. You are  
13 a danger to other people. You are at a very high risk  
14 of re-offending again unless you get help quickly.

15 The record goes back to 1972. That's 30 years  
16 ago.

17 THE ACCUSED: Closer to 1980.

18 THE COURT: Pardon me?

19 THE ACCUSED: '82.

20 THE COURT: No, 1972, and then there's a jump  
21 to 1982. 1972 was a theft under, and then 1982, a  
22 possession of a weapon.

23 MR. BOYD: Sir, I believe that entry is an  
24 error because he would have only been seven.

25 THE COURT: Cross that off. Good. The  
26 record is corrected. The thing I'm saying, though,  
27 remains in tact. The record goes back 20 years, two

1           could have seen a sentence of certainly two to three  
2           years.

3           There will be a DNA order. There will be a  
4           firearm prohibition order - it will begin today and  
5           end ten years after your release from imprisonment.

6           One advantage of keeping the sentence at 15  
7           months is that when I add on the one month, as I do  
8           for the first failure to obey the undertaking, and two  
9           months, which I feel to be more appropriate than what  
10          the Crown sought for the second breach, I arrive at a  
11          total of 18 months' imprisonment. Because the  
12          sentence is not over two years, I can impose  
13          probation, and this may give you the help that you  
14          need, it may help to save a life in the future, it may  
15          help to make your lives more meaningful, and may help  
16          to protect the public ultimately. I could not make a  
17          probation order if the sentence overall were more than  
18          two years.

19          There will be, on the aggravated assault, a  
20          three-year probation order, to begin after release  
21          from imprisonment. Apart from the statutory terms,  
22          you are to report to a probation officer within three  
23          days of your release, and thereafter, when and as  
24          directed by that person.

25          I see that you have not had a meaningful period  
26          of probation since 1993, that's about ten years ago,  
27          and that's another reason for making a probation

1 order. To do that, a sentence has to be, as I said  
2 before, less than two years in total. Or two years or  
3 less. The difference is without importance.

4 I continue.

5 You are to actively participate in whatever  
6 counselling the probation officer may direct from time  
7 to time. You are not to be in the presence of Norma  
8 Norman while you are to any degree under the influence  
9 of alcohol. If she wants to drink, you better go  
10 somewhere else because the temptation will be too  
11 great for you.

12 THE COURT CLERK: I'm sorry, sir. Would you say  
13 that again?

14 THE COURT: No. I continue. You will obey a  
15 breathalyzer demand made to you by a peace officer who  
16 has reasonable grounds to believe that you have  
17 violated that condition. I'm not going to prohibit  
18 you from drinking. To do that would be to set you up  
19 for a fall. You will drink. It's going to happen.  
20 You're too sick not to. But when you take that first  
21 drink, you better plan to be away from her. You are,  
22 as part of the counselling, to participate not only in  
23 alcohol counselling but, also, you are to be assessed  
24 by a psychologist as soon as the probation officer can  
25 get you in to see one. You are to continue seeing a  
26 psychologist as long as the probation officer directs  
27 you to do so.

1           I think this is a better way to deal with it than  
2 simply to give you 30 months' imprisonment, which is  
3 really what I did have in mind before, because then  
4 there couldn't be probation.

5           I don't know what will happen with the other  
6 matters. If you are convicted and sentenced, the  
7 sentence will probably be consecutive. You may end up  
8 in the penitentiary. But I'm not going to try to  
9 second-guess what may happen.

10           Does the Crown have anything further?

11 MR. LEPAGE:                   No, Your Honour. Thank you.

12 THE COURT:                   Does the defence?

13 MR. BOYD:                    No, sir.

14 THE COURT CLERK:            Are we doing a Form 8 for the  
15 remainder?

16 THE COURT:                   Thank you for raising that. In  
17 fact, I had that on my paper to speak to that.

18           I know I suggested that there be a Form 8 before,  
19 but he's not going to be out before the April 30th  
20 date in any event; and if I do make a Form 8 on the  
21 other matters, it may be that someone at the  
22 correctional centre may decide to keep him in remand  
23 despite the sentence. I don't know what they'll do,  
24 so maybe it's better not to have a Form 8 and simple  
25 leave it this way: The undertaking that Justice of  
26 the Peace Gowans put him on can remain, and the Crown  
27 is to prepare a Removal Order for April 30th, 10 a.m.

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Anything more from the defence?

MR. BOYD: No, Your Honour.

THE COURT: Madam Clerk, I'll go over that term that you missed later on.

THE COURT CLERK: Thank you, sir.


THE COURT: I should add to the reasons, because the Court of Appeal, if the matter should go that far, or if someone else is reviewing this later on after one of the two of them is dead, the record should reflect that the accused is truly remorseful. There's no doubt. I have seen that here today. The problem is he can't control himself. That's it, Mr. Koe.

The Warrant of Committal will have a term on it that he be permitted to be assessed by a psychologist forthwith.

**(CONCLUSION OF REASONS FOR SENTENCE)**

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Certified Pursuant to Rule 723  
of the Rules of Court

  
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Jane Romanowich,  
Court Reporter