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THE SUPREME COURT OF  
THE NORTHERN TERRITORY

SCC 21808594, 21705250

THE QUEEN

and

CHARLES ALUM

(Sentence)

GRAHAM AJ

TRANSCRIPT OF PROCEEDINGS

AT DARWIN ON WEDNESDAY 16 OCTOBER 2019

Transcribed by:  
EPIQ

HIS HONOUR: The offender, Charles Alum, comes before me on 16 October 2019. He was charged with engaging in conduct involving a violent act to JT, causing his death. The charge is laid pursuant to s 161(a)(1) of the *Criminal Code* and carries a maximum penalty of 16 years.

The circumstances of the offence were that on 6 February 2018 the offender and his cousin became involved in a heated argument at residential premises in Tennant Creek. The deceased was amongst the people present.

The offender was asked to leave the premises. The deceased, together with the cousin attempted to settle him down. Whilst the victim was seeking to placate him, the offender then suddenly punched him, causing him to fall backwards and strike his head on the road. The victim was taken to hospital and was released the next day, but died ten days later. He was aged 44 years of age.

The offender is aged 43. He has a number of previous convictions. This includes several convictions for assault, including a number of convictions for aggravated assault. He has been imprisoned in the past. He has been convicted of contravening a domestic violence order and he has breached orders suspending sentence.

He has shown contempt for the law in the past. It is often said that the past is a good predictor of the future, and this is relevant to this offender.

The defence submit that there are a number of factors that mitigate towards leniency. He has four children, including two adult children. When he grew up, the family moved around quite a bit due to the father of the offender working, either mustering or on the railways.

As the offender grew older, he spent more time in Tennant Creek. During this period of his life, I accept it was marred by some parental neglect and abuse. As a consequence, he was relocated. He has also witnessed physical abuse perpetrated by his stepfather.

To his credit and notwithstanding these problems, he completed year 10 at Katherine High School and was school captain of his year. He has been a good athlete. He has represented the Territory in Rugby Union and Rugby League in underage competitions and continued his football career and played for about 20 years or so.

He has worked from time to time. He worked with the Northern Land Council. He became a butcher after completing his apprenticeship, and later, he became a concreter before returning to butchering.

He has had a number of relationships over the years, and as I said before, has had four children.

Alcohol clearly is a problem for him, but it seems there was a time when he lived in Adelaide and also Perth, where he found religion, he studied at the Bible College and became an ordained Seventh-day Adventist Church minister. It has been submitted that he was instrumental in opening a church at Tennant Creek, and it was there that he met his current partner.

Unfortunately, yet again, he began drinking. This led to binge drinking and in turn led to violence and then in turn led to gaol. His partner and children reside at a rehabilitation centre in Katherine.

The offender has written a letter to the court, accepting full responsibility for what occurred. A letter has also been received from the facilitator of a family violence prevention program. It is noted that the offender encourages and supports others and was making good personal progress.

There are victim impact statements that have been received from the three sisters of the deceased and the deceased's aunt. The aunt says that she misses her son very much and wishes he was still here with us. She says that she still always thinks of him, that he has gone out bush for work and will return soon.

The sisters, including his big sister, also say they miss him very much and wish he was still here. Sometimes the sisters and their children sit down and have their emotions come out when they think of their brother, who they loved and cherished.

This was a senseless, drunken and angry attack on a man who was seeking to do nothing more than to placate the offender. A terrible consequence ensued and this poor man died.

This offender has a bad record. He has shown an inclination in the past to assault other people. He has perpetrated domestic violence. Subsequent to the offence, in a chat conversation, he gloated about his offence. The Crown submit, and there is much force in this submission, that this chat exchange provides an insight into the offending, which shows that, at least at that time, his attitude was punctuated by bravado rather than remorse.

I conclude that personal and general deterrence are the most important factors in assessing penalty in this case. I take into account the Venndale report and the institutional report, which are somewhat positive. But in saying that there are prospects for rehabilitation, one must note that in the past, he has breached suspended sentence orders and so therefore those prospects have to be very guarded.

In addition, there should be an aspect of denunciation. A man died as a consequence of this angry attack. He should be held responsible and punished for this.

The matter first came before me on 20 September 2019. At that time, I heard the plea from counsel for defence and Crown and heard some later submissions today. The matter was adjourned so that these reports could be obtained.

The s 103 report notes that the offender has a lengthy history of violent offending and consistently failing to comply with court orders and therefore remains unacceptable risk. As I say, the institutional report is more positive. It says that he is well behaved and respectful and polite.

However, in this case, I am not prepared to suspend part of his sentence. He should be imprisoned with a non-parole period. I am prepared to give him some discount for the plea but I note the plea was not made at the earliest opportunity and came after the committal for trial. I do, however, take into account there were issues of causation that had to be investigated, and that may account, at least to some extent, for the delay in admitting guilt. It may be that he was seeking legal advice at that time.

On the other hand, the posts or texts that the offender shared with his friend suggest that, at least at the time that he sent those, he was proud of what he had done.

The term of imprisonment shall be 5 years and 6 months. There will be a discount of one year for his plea, which leaves a balance of 4 years and 6 months to serve.

There is 2 months' gaol outstanding under file number 21705250. In that case, there had been a suspended sentence that had been breached. I will restore that sentence.

The offender has been in custody since 18 February 2018. He will commence serving his time under my sentence today on 18 April 2018. In the meantime he will serve out the 2 months under the outstanding suspended sentence breach file. There will be a 50 per cent non-parole period on the balance of 4 years and 6 months.

Are there any other matters, counsel?

MR ROBSON: Thank you.

MS COLLINS: Thank you, your Honour.

HIS HONOUR: Thank you, counsel.

We will now adjourn.

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