

IN THE COURT OF APPEAL OF THE NORTHWEST TERRITORIES

YELLOWKNIFE CRIMINAL APPEAL SITTINGS

HEARD JUNE 21, 1994

	<u>COUNSEL</u>	<u>TRIAL JUDGE</u>	<u>COURT</u>
HER MAJESTY THE QUEEN Respondent	S. Aitken	Bourassa T.C.J.	Lieberman J.A. Irving J.A. Vertes J.A.
- and -			
NORMAN WETRADE Appellant	R. Gorin		

APPEAL #CA 00473

MEMORANDUM OF JUDGMENT
DELIVERED FROM THE BENCH

LIEBERMAN J.A. (for the Court):

The appellant appeals the sentence of two months imprisonment and a driving suspension of 18 months imposed upon him as a result of a charge of driving while the blood alcohol level was in excess of .08 millimetres.

The matter came before the learned Territorial Court Judge in what I would call a Statement of Facts rather than by *viva voce* evidence. At the time of apprehension, the appellant had been driving a vehicle which had struck a pedestrian. It is common ground that no causal link was established between the drinking and the injury to the unfortunate pedestrian.

It must be borne in mind that this was a conviction under the .08 section and not a conviction of impaired driving. The appellant has a clean driving record and, in fact, a clear overall record. He is a young man and other than for this event has not been in trouble with the law. In our view, the sentence imposed was not fit and proper and we would allow the appeal.

For the sentence imposed we substitute a fine of \$1,000 and, in default, 60 days, and we suspend the driving privileges for a period of six months.

The respondent shall have four months within which to pay the fine.

SSH

APPEAL #CA 00473

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NORTHWEST TERRITORIES

BETWEEN:

HER MAJESTY THE QUEEN

Respondent

- and -

NORMAN WETRADE

Appellant

MEMORANDUM OF JUDGMENT
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