

IN THE COURT OF APPEAL OF THE NORTHWEST TERRITORIES

THE COURT:

THE HONOURABLE CHIEF JUSTICE CATHERINE A. FRASER
THE HONOURABLE JUSTICE J.E. RICHARD
THE HONOURABLE MADAM JUSTICE E.A. McFADYEN

BETWEEN:

IRVINE McPHERSON

Appellant

- and

HER MAJESTY THE QUEEN

Respondent

APPEAL FROM CONVICTION AND SENTENCE OF
THE HONOURABLE JUSTICE J.Z. VERTES

UNANIMOUS DECISION
DELIVERED ORALLY FROM THE BENCH

A. Wright,
Counsel for the Appellant

A. Regel,
Counsel for the Respondent

McFadyen, J.A. (for the Court):

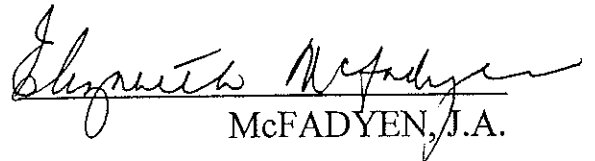
[1] In the first ground of appeal, the Appellant submits that the trial judge erred in failing to apply the standard of proof beyond a reasonable doubt to unprosecuted criminal activity.

[2] While the trial judge failed to expressly articulate the standard in setting out his findings in that respect, nothing in what he said persuades us that he was unaware of the standard or that he applied any other standard. In fact, in paragraph 19, he prefaced his review of the evidence by indicating that the criminal standard applied to all of the evidence.

[3] The Appellant also submits that the evidence and findings regarding the activity were too vague and uncertain to establish the commission of criminal activity beyond a reasonable doubt. We do not agree. As the trial judge said, the evidence was not challenged and the witnesses were found, by and large, to be credible. Inferentially, the trial judge accepted the key elements of the evidence as establishing criminal conduct. His findings, in this respect, are supported by the evidence.

[4] The appeal is dismissed. The detention will now be reviewed regularly by the Parole Board. It is now up to the Appellant to demonstrate the change necessary to effect any alteration of his status.

APPEAL HEARD on October 11, 2000
MEMORANDUM FILED at Yellowknife, NT
this 10th day of July 2001


McFADYEN, J.A.

CA 00770

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MEMORANDUM OF JUDGMENT

