

CV 03864

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

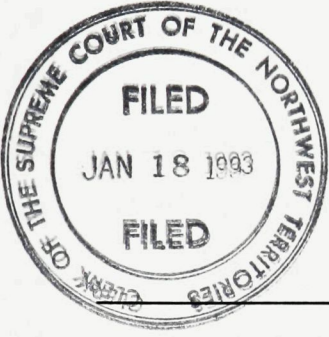
IN THE MATTER OF:

ROYAL OAK MINES INC.

- and -

CANADIAN ASSOCIATION OF SMELTER AND ALLIED WORKERS LOCAL NO.4, AND BILL SCHRAM, HARRY SEETON, BOB KOSTA, RICK CASSIDY, AL SHEARING, AND ROBIN JANZ.

1. STEVE CHRISTENSEN
2. BRIAN DROVER



Transcript of the Reasons for Judgment and Sentence delivered by the Honourable Mr. Justice J. E. Richard, sitting at Yellowknife, in the Northwest Territories, on December 22, A.D. 1992.

APPEARANCES:

- | | |
|-----------------|-----------------------------------|
| MR. S. DUKE | On behalf of the Applicant |
| MR. A. MARSHALL | On behalf of the Respondent |
| MR. D. MILLER | On behalf of the Attorney General |

1 THE COURT:

2 The present application by Royal Oak
3 Mines for an order finding each of Steve Christensen
4 and Brian Drover to be in contempt of court arises
5 from an incident which occurred at the minesite on the
6 evening of May 26, which was just three days after the
7 commencement of the strike. It was a serious incident
8 involving injuries to persons on both sides of the
9 labour dispute, and also extensive property damage.
10 It was one of the most serious of the numerous
11 incidents that have been the subject matter of these
12 many contempt hearings held over the past several
13 months. It is the very type of incident that the
14 court's injunction order was designed to prevent from
15 occurring. If the court's injunction order had been
16 obeyed, this incident would not have occurred.

17 As serious as the incident was, it had the
18 potential to become a much uglier and much more
19 violent situation. It was only because of the actions
20 of people like David Power and Brian Drover that the
21 situation did not become any worse than it did.

22 I am satisfied that this incident was
23 precipitated by the anger felt by Steve Christensen
24 and others when they learned of the manner in which
25 one of the company's supply trucks had driven onto the
26 property past some of the striking miners and through
27 the Gate #4. Any anger felt by Mr. Christensen did
not justify his conduct in entering onto the mine

1 property in the manner that he did, or his conduct
2 once he was on the mine property.

3 I have heard conflicting evidence on this hearing
4 as to some of the events which occurred while
5 Mr. Christensen was on the mine property. Upon a
6 consideration of all of the evidence, I'm of the view
7 that Mr. Christensen has coloured his testimony both
8 by way of exaggerating some of the details and
9 circumstances and by way of attempting to minimize the
10 extent of his unlawful conduct.

11 Mr. Christensen entered the mine property, and
12 while on the mine property he drove his truck in a
13 careless and reckless manner. He had no lawful reason
14 for being on the mine property at that time, nor for
15 driving his truck in the manner that he did. At one
16 point in time the security officers, who were
17 investigating Mr. Christensen's unauthorized presence
18 on the mine property, parked a company vehicle across
19 the road to block Mr. Christensen's path. It is not
20 for me to determine on this application whether those
21 security officers made a wise decision in doing so.
22 When Mr. Christensen was confronted with this vehicle
23 blocking his path, I am satisfied that he deliberately
24 drove his vehicle into the parked company vehicle
25 twice knowing that there were occupants in that
26 vehicle and endangering their safety. I am satisfied
27 that he drove into the stationary vehicle a third time

1 when it was unoccupied in his efforts to drive around
2 it.

3 As Mr. Christensen then drove away he was pursued
4 by another company vehicle driven by a security
5 officer. In the course of this chase and
6 confrontation Mr. Christensen's brother, Bradley
7 Christensen, who was on the road, was struck by the
8 company vehicle driven by the security officer and
9 injured. Although Mr. Christensen's conduct was not
10 the sole cause of his brother's injuries, his conduct
11 was certainly a major contributing cause of it. In
12 other words, if Mr. Christensen had not behaved as
13 irresponsibly as he did, his brother would never have
14 been hit by any vehicle; violence begets violence.

15 At the beginning of the strike the court, in an
16 effort to avoid violent confrontation between the two
17 sides, had restricted the type of activity that could
18 occur at the picket line. Mr. Christensen was well
19 aware that he was not permitted by the court order to
20 enter onto the mine property and confront
21 Mr. Weatherby, the driver of the supply truck. He was
22 well aware that he was not permitted by the terms of
23 the court order to ram into vehicles which were in his
24 way. Notwithstanding this, he deliberately and
25 defiantly breached the court's injunction order in
26 acting as he did. According to Mr. Christensen, his
27 actions were justified by the conduct of Mr. Weatherby

1 and by the attitude of the security officers. That
2 assertion is about as logical as it would be to state
3 that the security officers would be justified in
4 running over his vehicle with a two-ton truck because
5 of what he had done to the company vehicle.

6 There is one aspect of Mr. Christensen's
7 testimony that I do not doubt, and that is that he was
8 acting out of anger and frustration. As he himself
9 stated, there were a lot of angry and uptight people
10 on both sides on this occasion. This was only the
11 third day of the strike, it was a new experience for
12 Mr. Christensen, and he was angry that someone was
13 taking his job. People like Mr. Christensen have to
14 learn to control their anger. His angry outburst on
15 this occasion led to violence on the picket line and
16 did nothing to assist the grievances of he and his
17 fellow strikers.

18 On the standard of proof beyond a reasonable
19 doubt, I find that Mr. Christensen's conduct on this
20 occasion constituted a serious breach of the court's
21 injunction order. His conduct constitutes a "watching
22 and besetting at the minesite" contrary to the terms
23 of the court's order. But it was much more serious
24 than simply watching and besetting. His conduct
25 amounts to a criminal contempt of court inasmuch as
26 his defiance of the court order was done in a very
27 deliberate and a very public way knowing that this

1 public disobedience would tend to depreciate the
2 respect and authority of the court.

3 I wish to turn now briefly to the company's
4 application for a finding of contempt as against Brian
5 Drover. Dave Power in his testimony stated that after
6 Bradley Christensen was struck by the company vehicle
7 and was being attended to by his brother and another
8 person, he, that is David Power, noticed that Brian
9 Drover and a large group of other persons were coming
10 on to the mine property from the direction of Gate #4,
11 and Mr. Power was concerned that there was going to be
12 a confrontation between this group of strikers and the
13 security people. Mr. Power requested or instructed
14 the security people to retreat, and they did. Mr.
15 Power went to Mr. Drover, who he knew, and requested
16 his assistance in avoiding the confrontation.
17 Mr. Power says that at his request Mr. Drover went to
18 speak to the approaching group of strikers, and it
19 appears he convinced them to retreat from the mine
20 property.

21 Mr. Drover in his own testimony indicated that
22 the only reason he came onto the mine property is that
23 he had witnessed the person being struck by a company
24 vehicle, and he, being trained in first aid, was going
25 to render assistance to the injured party. I accept
26 Mr. Drover's evidence on this point, and also that he
27 agreed to help defuse the situation by trying to get

public disclosure would tend to depreciate the
respect and authority of the court.
I wish to take the liberty to the court
application for a finding of contempt as stated above.
However, David Power in his testimony stated that
Bradley Guterman was struck by the company vehicle
and was being returned to by the doctor and another
person, not that David Power, helped that person.
However, and a large group of other persons were
on to the mine property (was the situation of mine
and Mr. Power was concerned that there was going to be
a confrontation between this group of witnesses and the
security people. Mr. Power seemed to indicate
the security people to retreat, and they did. Mr.
Power went to Mr. Power, who he knew, and responded
his assistance in avoiding the confrontation.
Mr. Power says that at his request Mr. Power went to
speak to the approaching group of witnesses, and it
appears he convinced them to retreat from the mine
property.
Mr. Power in his own testimony indicated that
the only reason he came onto the mine property is that
he had witnessed the person being struck by a company
vehicle, and he, being trained in first aid, was going
to render assistance to the injured party. I believe
Mr. Power's evidence on this point, and also that he
sought to help deliver the situation by trying to get

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1 the strikers to retreat from the property.

2 In these circumstances where Mr. Drover's
3 behaviour was such as to defuse the situation rather
4 than aggravate it, I find that he was not acting in
5 breach of the court's injunction order. He did enter
6 onto the mine property, but I accept that he had a
7 reasonable excuse for doing so. The application as
8 against Brian Drover is dismissed.

9 (AT WHICH TIME SUBMISSIONS WERE MADE BY COUNSEL)

10 THE COURT: Mr. Christensen has been found guilty
11 of contempt of court by reason of his deliberate
12 defiance of an injunction order issued by this Court.
13 That injunction order restricted his activities at the
14 minesite to picketing at one of the mine entrances in
15 order to communicate or obtain information. Instead
16 Mr. Christensen entered the mine property in his
17 vehicle and provoked a violent confrontation with the
18 company's security personnel, a confrontation which
19 caused damage to company vehicles, damage to
20 Mr. Christensen's vehicle, and injuries to
21 Mr. Christensen's own brother and to a security
22 officer. I am not going to repeat the other details
23 of this incident other than to repeat once again that
24 his breach of the court order led to a very serious
25 incident.

26 The court's injunction order was not made just
27 for the sake of making an order. It was made for the

the situation as outlined in the report.
In the case of the defendant, Mr. [Name],
behaviour was such as to raise the question of
than appropriate. It is felt that the defendant
press of the court's jurisdiction over the case
over the side property and a report that he had a
reasonable cause for belief that the application as
against other property is justified.

(AT WHICH TIME THE COURT ADJOURNED)

THE COURT: Mr. Christensen has been found guilty
of contempt of court by reason of his defiance
of the court's order. He has been fined \$100.
That judgment is hereby entered and the defendant is
directed to appear at court on the same date in
order to commence or effect restitution. In case
Mr. Christensen does not pay the fine property in his
possession and control is to be forfeited to the
company's estate. In addition, a writ of execution shall
be issued against the property - which is to
be sold to satisfy the judgment and the fine.
Mr. Christensen's vehicle and the fine to
Mr. Christensen's company and the fine to
the court. It is ordered that the other parties
of this incident be held to their respective parts of
the process of the court. It is a very serious
incident.
The court's judgment is hereby entered and the fine
for the sake of asking an order. It was made for the

1 specific purpose of avoiding violence at the minesite.
2 No matter how angry or frustrated Mr. Christensen is
3 or was, he is not free to disobey an order of the
4 court. If court orders are not respected, we will
5 have uncontrolled violence and anarchy in our
6 community.

7 When punishing someone for contempt of court, the
8 Court's primary concern is not punishment for the sake
9 of punishment. The Court's primary concern is
10 deterrence, that is simply to ensure that the court's
11 order is obeyed in the future by Mr. Christensen and
12 by everyone else.

13 In imposing sentence in this case I am taking
14 into consideration the seriousness of the incident
15 that resulted from Mr. Christensen's breach. I am
16 also taking into consideration the brief details that
17 I have been provided with as to Mr. Christensen's
18 background. I take it that he is otherwise a
19 law-abiding citizen who maintains steady employment
20 and who supports his family. I am also taking into
21 consideration the sentences that the Court has imposed
22 on others who have acted in breach of the court's
23 injunction order. I also wish to state clearly that
24 the sanction that is being imposed is not being
25 imposed because Mr. Christensen breached the Criminal
26 Code or any other statutes, but simply because he
27 disobeyed an order of this Court.

1 Taking all of these things into consideration, I
2 impose a sentence of 20 days imprisonment, however,
3 exercising the power which I have at law in contempt
4 proceedings, I am going to suspend that sentence for a
5 period of six months. The result of that,
6 Mr. Christensen, is that you will be free to go today,
7 but you will be bound by the order of this court to
8 keep the peace and to obey all court orders, and to
9 come back before this Court when you are required to
10 do so within the next six months. Now if you keep the
11 peace during that time period and obey all court
12 orders, your sentence of 20 days imprisonment will be
13 discharged without further order of this Court. On
14 the other hand, if you breach the peace in any way
15 during the next six months, you will be brought back
16 before this court for judgment; and if any breach is
17 proven, you will be committed to jail for 20 days. Do
18 you understand all of this Mr. Christensen?

19 MR. CHRISTENSEN: Yes, Your Honour.

20 THE COURT: I am going to ask Mr. Miller, who is
21 here on behalf of the attorney general, to prepare a
22 formal court order reflecting what I have just said
23 and to arrange for a copy of the order to be served on
24 you in due course. But the order will take effect
25 immediately, and Mr. Christensen will be free to leave
26 today.

27 Now Mr. Christensen, I heard you clearly when you

1 testified that you were well aware that the strike is
2 having just a terrible impact on this community. I
3 hope that you will do your part to ensure that it
4 won't be necessary for the Court to see you back here
5 again.

6 (AT WHICH TIME THIS MATTER WAS ADJOURNED)

7
8 Certified a correct transcript,

9
10 

11 Loretta Mott
12 Court Reporter

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

testified that you were well & in good health at the time
having just a slight cold at the time.
page that you will be well & in good health at the time
don't be nervous, but the fact is that you were
quite.

(AT THIS TIME THE WITNESS WAS CALLED TO THE STAND)

Testified as follows:

Witness's name
Court Reporter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27