SC CIV 93 011

CV 03864

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

COURT HOUSE LIBRARY
MAR 5 1993
YELLOWKNIFE

IN THE MATTER OF:

ROYAL OAK MINES INC.

Plaintiff

- and -

MARC DANIS

Defendant

Transcript of the Reasons for Judgment Delivered by The Honourable Mr. Justice M. M. de Weerdt, sitting in Yellowknife, in the Northwest Territories, on Tuesday, February 2nd, A.D., 1993.

APPEARANCES:

MR. S. DUKE:	On Behalf of the Plaintiff
MR. A. MARSHALL:	On Behalf of the Defendant
MR. B. WEBBER:	On Behalf of the Crown

SUPREME COURT OF THE NORTHWEST TERRITORIES
FILED
FEB 9 1993
FILED

1 THE COURT: Could you let me see the injunction
2 order that's referred to in this charge? Thank you.
3 The motion before the court is in the nature of a
4 nonsuit. More specifically, it is said on behalf of
5 Mr. Danis that the breach with which he is charged
6 alleges an interference with the employees of the
7 plaintiff in connection with the entry of a bus on the
8 Giant Mine property on the date and at the place
9 charged. It is submitted on behalf of Mr. Danis that
10 the evidence does show some interference with the
11 closing of the gate, but only after the bus had
12 entered. On behalf of the applicant company, it is
13 submitted that there was interference with the
14 employees at the gate. It is conceded that this
15 occurred after the bus had entered.
16 Looking at the charge at the top of page four in
17 paragraph three of the notice of motion, it reads Marc
18 Danis breached the said injunction order by preventing
19 or attempting to prevent or interfering with the
20 employees of the plaintiff, namely Terry Byberg and
21 others in a bus entering the Giant Mine through the
22 main gate on Thursday, the 11th day of June, 1992, by
23 using force and intimidation.
24 Counsel for Mr. Danis has referred to the
25 injunction order. I take that to be the consolidated
26 order, Mr. Marshall, that you were referring to and we
27 can take it that that is the order mentioned in

OFFICIAL COURT REPORTERS

1 paragraph three?

2 MR. MARSHALL: We could look at the consolidated

3 order although that one wasn't in existence at the

4 time. The order that would exist at the time would be

5 the May 23rd order as amended on May 29th.

6 THE COURT: Perhaps I should look at that one then

7 instead.

8 MR. MARSHALL: That would be the one that's--

9 THE CLERK: It was amended when?

10 MR. MARSHALL: It was amended, I believe, on May

11 29th, so there is two orders that were in effect at

12 the time.

13 THE COURT: You should let me have them both then.

14 Thank you. The order pronounced on May 29th merely

15 amended the earlier order as to the number of

16 picketers. So at the time in question ten would have

17 been within the scope of what was permitted. Do

18 counsel agree on that? Mr. Duke? This is as of June

19 the 11th. Ten picketers would have been permitted?

20 MR. DUKE: That's true, My Lord.

21 THE COURT: Mr. Marshall?

22 MR. MARSHALL: Yes, My Lord.

23 THE COURT: All right. So then I go back to the

24 order pronounced on May 23rd which enjoins all

25 concerned from watching, besetting, picketing or

26 attempting to do these things at or adjacent to the

27 plaintiff's premises at Giant Mine except as

1 specifically stated, and that's to say picketing
2 merely to obtain or communicate information by no more
3 than five picketers, well, that was amended to ten, at
4 the main entrance to Giant Mine, all of whom are
5 either employees of the plaintiff or officials of the
6 defendant Canadian Association of Smelter and Allied
7 Workers, local number 4. And furthermore, picketing
8 merely to obtain or communicate information by no more
9 than five picketers at any other entrance. Again that
10 would be ten. So what was permitted was picketing
11 merely to obtain or communicate information by no more
12 than the designated number of picketers.
13 Here on the evidence, one can see that certainly
14 things were being done that went outside the scope of
15 that order, but what I must focus on is what is
16 charged. It may be that other things which could have
17 been charged were being done, but what is charged is
18 that Mr. Danis prevented or attempted to prevent or
19 interfered with Terry Byberg and other employees of
20 the plaintiff entering the Giant Mine through the main
21 gate. That's how I read the charge and I have not
22 been pursuaded that it should be read differently.
23 On the charge before the court, I find there is no
24 evidence on which a judgment can be entered against
25 Mr. Danis, although on the evidence heard today, I do
26 not rule out by any means other charges which might be
27 brought forward. I take it then, gentlemen, I should

simply direct that the exhibits be dealt with as they have been in other proceedings. Mr. Danis, you are discharged.

THE ACCUSED: Thank you, Your Honour.

THE COURT: You have heard what I said.

THE ACCUSED: Yes, I have.

THE COURT: All right then.

(AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED)

Certified Pursuant to Practice Direction #20
dated December 28, 1987.

Laurie Ann Young

Laurie Ann Young
Court Reporter