

CV 03864

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

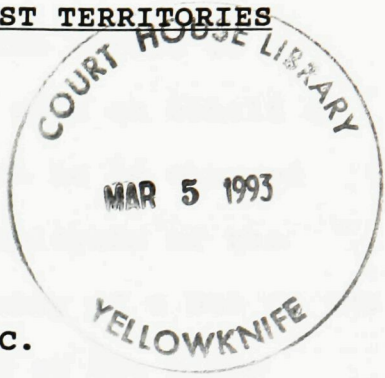
ROYAL OAK MINES INC.

Plaintiff

- and -

MARC DANIS

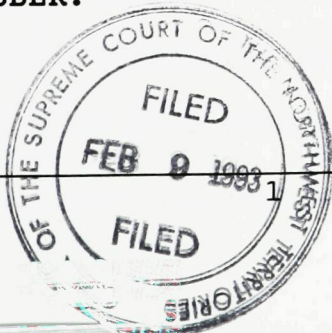
Defendant



Transcript of the Reasons for Judgment Delivered by The Honourable Mr. Justice M. M. de Weerd, 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



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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

THE COURT
ORDER
The order before the court is the order of
warrant. It is a writ of habeas corpus
granted to the petitioner and the respondent
is directed to produce the body of the
respondent before the court. The court
is satisfied that the respondent is
lawfully detained and that the
petitioner is entitled to his
liberty. The court orders that the
respondent be released from custody
and that the costs of the proceedings
be paid by the petitioner. The court
orders that the respondent be
released from custody and that the
costs of the proceedings be paid
by the petitioner. The court
orders that the respondent be
released from custody and that the
costs of the proceedings be paid
by the petitioner.

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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

paragraph three.

MR. MARSHALL: ...

... although that the ...

... the order that would exist ...

... the way this ...

THE COURT: ...

... instead.

MR. MARSHALL: ...

THE CLERK: ...

MR. MARSHALL: ...

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THE COURT: ...

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MR. MARSHALL: ...

THE COURT: ...

MR. MARSHALL: ...

THE COURT: ...

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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 persuaded 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

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

4 THE ACCUSED: Thank you, Your Honour.

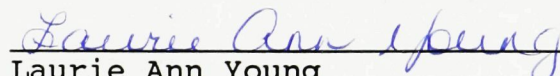
5 THE COURT: You have heard what I said.

6 THE ACCUSED: Yes, I have.

7 THE COURT: All right then.

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9 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED)

10
11 Certified Pursuant to Practice Direction #20
12 dated December 28, 1987.

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14 
15 Laurie Ann Young
16 Court Reporter
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already direct that the exhibits be dealt with as they
have been in other proceedings. Mr. ... you are

Thank you, your honor.

and have I said.

Yes, I have.

(All right, thank you.)

(AT THIS TIME THE PROCEEDINGS WERE ADJOURNED)

Continued pursuant to Order of the Court
dated October 14, 1957

Clerk of the Court

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