

CV 03864

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

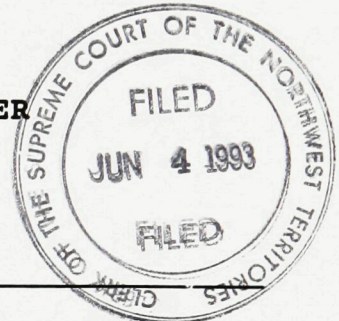
IN THE MATTER OF:

ROYAL OAK MINES INC.

- and -

CANADIAN ASSOCIATION OF SMELTERS
AND ALLIED WORKERS

AMOS SIMON



Transcript of the Sentence delivered by The Honourable
Mr. Justice M.M. de Weerd, sitting at Yellowknife in the
Northwest Territories, on April 28, A.D., 1993.

APPEARANCES:

MR. L. ROSE: Counsel for the Crown
MS. V. SCHULER, Q.C.: Counsel for the Applicant
MR. A. MARSHALL: Counsel for the Respondent

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

CV 0384

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

CHIEF JUSTICE



BY AND WITH THE

DEPARTMENT OF THE ATTORNEY GENERAL



DEPARTMENT OF THE ATTORNEY GENERAL

1982

Transcript of the hearing delivered by the Honorable Mr. Justice N.W. de Meester, sitting as follows in the Northwest Territories, on 27th, 28th, 29th, 30th, 31st, 1982.

Counsel for the Crown
Counsel for the Applicant
Counsel for the Respondent



1 THE COURT: As counsel have pointed out to me, the
2 Court's manner of disposing of such cases in the past
3 has been to fix a sentence and suspend it for a period
4 under conditions so that the sentence would not have
5 to be served if the conditions were complied with.

6 That would have been the obvious way to treat the
7 matters before the Court were it not for the fact that
8 Mr. Simon was before the Court on an earlier occasion.
9 He was held to be in criminal contempt on that
10 occasion and was dealt with in that way on that
11 occasion. To his credit, I'm told and I believe that
12 he lived up to the conditions that were imposed on
13 that occasion.

14 As his counsel has pointed out, this is not a case
15 where any violence occurred. He has apparently
16 recently been convicted of a criminal offence
17 involving some violence on the picket line back last
18 May. There's no suggestion of any behaviour of that
19 kind here, and I therefore merely note that in
20 passing, and I do not think that I will allow it to
21 influence my decision on sentence here.

22 What concerns me most is the fact that he has
23 already been before the Court and found guilty of a
24 criminal contempt by publicly defying the Court in
25 breaching the injunction order. That, apparently,
26 occurred back in June of 1992 and, as I say, it
27 appears that he lived up to the conditions that were

1 imposed by the Court on his being found guilty of that
2 offence.

3 As counsel know, and as I have mentioned, I have
4 given serious thought to imposing a substantial
5 monetary penalty here in the belief that those who may
6 be encouraging, inciting, and instructing, directing,
7 assisting, or hoping to benefit from Mr. Simon's
8 activities might be prevailed upon to pay rather than
9 see him made the victim of their schemes. However, I
10 grant what Mr. Marshall has said to be correct that I
11 do not have sufficient before me to take that approach
12 although what I am saying may be carried back to
13 others so that they will appreciate that the Court's
14 blindfold is not completely covering every inch of its
15 face.

16 I'm going to give you an opportunity, if you wish,
17 Mr. Simon to speak to the Court on your own behalf.

18 Is there anything that you wish to say before the
19 Court reaches its disposition in this case?

20 MR. MARSHALL: Mr. Simon doesn't have anything he
21 wishes to say at this time, My Lord. He's content to
22 what has already been submitted.

23 THE COURT: Very good then.

24 On the first of the charges which concern the
25 events of April 6, 1993, the Court has found you
26 guilty of criminal contempt for being in breach of the
27 injunction order as charged; and for that offence, it

1 imposes a sentence of 10 days which will be suspended
2 for a period of three months subject to the same
3 conditions as applied in the order of this Court made
4 on December 30, 1992.

5 On the second count, the Court has found you
6 guilty of criminal contempt of Court as charged, and
7 the sentence the Court is that you shall serve a
8 further 10 days consecutive to the first but suspended
9 for a period of a further three months; that is to
10 say, perhaps it would be better to suspend it simply
11 for six months on the same terms and conditions as
12 before.

13 In reaching this disposition, I have not ignored
14 what Mr. Marshall has said about your preference, Mr.
15 Simon, and I can well appreciate that you might prefer
16 not to be subjected to the terms of the suspension but
17 on weighing that carefully, I want you to look on this
18 as perhaps your last chance because should you incur a
19 term of imprisonment, I can assure you that on a third
20 occasion, the Court -- and this might not be myself,
21 it could be any of our forty odd Judges sitting here --
22 may very well consider that a condign punishment is
23 necessary. I leave you with that in mind, and I trust
24 that you give it some thought.

25 I take it there is nothing else that I can do
26 other than dispose of exhibits if that should be
27 necessary.

1 MS. SCHULER: My Lord, there is "C" in the Notice of
2 Motion, the one incident at the muck crossing. I'm
3 sorry, perhaps I misunderstood. Is the first sentence
4 that you indicated for "A" and --

5 THE COURT: For "A" and "B" together. I see those
6 as two sides of the same coin. The second one is for
7 event "C".

8 MS. SCHULER: All right, thank you.

9 THE COURT: Well, then I thank counsel. I may say
10 I have been somewhat more lenient than I might have
11 been, but Mr. Marshall has conducted the proceedings
12 in a way to minimize the costs to the public and,
13 undoubtedly, he has done that on your instructions and
14 therefore I have given you credit for that.

15 MR. MARSHALL: Thank you, My Lord.

16 MS. SCHULER: Thank you, My Lord.

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18 PROCEEDINGS CONCLUDED

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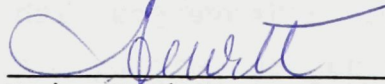
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Certified Pursuant to Practice Direction #20
dated December 28, 1987.

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Lois Hewitt,
Court Reporter

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