

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

Between:

HER MAJESTY THE QUEEN

Appellant

-and-

FRED MARLOWE

Respondent

27-Jan-1976

REASONS FOR JUDGMENT OF THE HONOURABLE  
MR. JUSTICE W. G. MORROW

Because the two cases involved in these Appeals really are a continuation of the same factual situation, and because of the peculiar position of Snowdrift being a community not associated with drinking and impaired driving - in respect of Appeal 1419 as to unlawfully driving a motor vehicle while his ability to drive was impaired, as Mr. Troy has pointed out, this was the minimum fine provided for in the legislation - of fifty dollars.

Normally, the practice in the Magistrate's Court, I think, as supported by my Court, has been to consider that fifty dollars is not really an appropriate fine when the impaired driving has been of a rather careless nature and has shown a rather careless behaviour; so for the purpose of the public here today and for the accused I think they



should realize that fifty dollars had better not be looked upon as a normal fine, and because and as a protection to make sure the two cases are not confused in the sentence, I am dismissing the Crown's Appeal in respect of 1419 - that is the one on impaired driving.

With respect to the other Appeal, however, the one where the accused has been charged and pled guilty to unlawfully assaulting a constable, that is, Klass Lok, a peace officer engaged in the lawful execution of his duty with intent to resist the lawful arrest of himself - this is considered by the Courts in general as a very serious offence and is considered by the Government as a serious offence.

The Crown in this case, which is to its credit, saw fit to go by way of summary proceedings, which, of course, limits the penalty and fine and brings the case on in the normal course at a more rapid time.

On the facts here I am impressed by the fact that the accused, Fred Marlowe, has kept out of trouble generally, and that is to his credit, and I am taking that into consideration.

I am also taking into consideration the fact that he saw fit to plead guilty before the learned Magistrate; but even giving him credit for those two things, I cannot accept the penalty provided in the lower Court as being a reasonable penalty under the circumstances.

In any community a policeman has a difficult time in carrying out his functions and duties. A certain amount of abuse goes with being a policeman, particularly when handling drunks, and it is the credit of the police that,



generally speaking, they have tough enough hides they are not so sensitive as to charge persons with obstruction or assault if there is a bit of a scuffle in making an arrest; but at some point in many of these cases it is beyond a mere scuffle and becomes a serious interference with the administration of the policeman's duties, and on the facts that are outlined to me here today Fred Marlowe did go beyond the "pale" as we call it --he went far too far.

This was not just a scuffle of a drunk. This was a serious assault, a serious effort to avoid arrest even after he had been arrested.

It is particularly important, I think, that the police have the support of the community in a remote community like this. A policeman, such as the present Constable, is without any back-up. Here, he had to call on his wife and a citizen.

I am rather surprised that so many people would stand by and not help the Constable, particularly in a community that only four years before had asked the Government to provide a detachment here. However, that is on their conscience. That is for them to decide.

I would hope that in the future, if this type of fracas takes place, that the citizens would respond to help the police, because the police are your protection --the police are Mr. Fred Marlowe's protection. That's what they're here for.

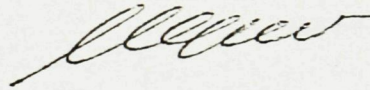
Taking everything into consideration, as I say, making allowance for the fact you pled guilty; allowance



for the fact you have had a clean record, except for one incident, and that has to be looked at, and because of your age, I am allowing the Crown Appeal as to sentence.

You will be sentenced to forty-five days in the Yellowknife Correctional Institute.

Pronounced at Snowdrift, N.W.T.  
January 27, 1976.



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W. G. Morrow