

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

Between:

HER MAJESTY THE QUEEN

Respondent

-and-

HAZEL WHITEHAWK

Appellant.

02 Mar 1976

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

In this case I want to make it clear that when a person pleads guilty before a Court, it doesn't matter what level of Court, it is usually taken they understand what they are doing. In most cases I think it indicates that the person wants to get it over with quickly. One can't start to open up cases of this kind just because they don't like the verdict after the penalty has been imposed.

In this case, however, it is a rather serious case. It does involve police officers. I am inclined to think that perhaps this young girl felt she might have been outnumbered in the Court, so I'm going to exercise my discretion and allow it to be changed to a "not guilty" plea.

I will give my judgment now.

In this type of case you can't test the facts with all the insights that appear to observers after the event. One must put themselves into the heat of battle as it was and try and see how it appears to the two officers on the occasion. They were invited into this house. There was no trouble getting in. They began an investigation. The accused and one other woman, apparently using obscene words, gave gratuitous advice from the sidelines to the effect that Billie Thrasher, the man the police wanted to interrogate, did not have to do anything, did not have to talk to them.

At some point during this stage of the interrogation, if I can call it that, Mr. Thrasher --but I suppose we can say all of them had shown some signs of drinking --changed part of the statement that he made, changed his story. I don't put too much significance into that except that it shows the general fluidity of that day or occasion. I think it is part of the duty of a police officer to absorb a certain amount of abuse and obscenities. I think that is clear, and I don't think that the advice from the sidelines itself became obstruction within the meaning of 118 (a) of the Criminal Code; and if this is all there had been I would have no trouble in dismissing the charge against the accused.

The difficulty with this case, however, is that it went past that point. Now, whether the officers were indiscreet

in pursuing their efforts to the point that it ended up in the fracas with Mr. Thrasher or not, that is not for me to decide here.

The fact is that they did attempt to get him outside. They had effected the arrest. They did act in a manner that, in fact, it was obvious to the accused there had been an arrest because of the efforts which she chose to engage in; and during the fracas on one occasion, and in the process I think once or twice she got between the officers and the person accused, Mr. Thrasher. She was tugging --was at times tugging on their parkas, and the other one on one occasion came with a bottle. All this is part of the general fracas. Certainly these police officers kept their attention for the most part on the man, but certainly out of the corner of their eye they had to keep their retreat under observation. All these irritations did interfere with their exercise of their duty to the extent they were forced to withdraw without carrying out their arrest.

The authorities make it quite clear, if they have resistance to that extent, that it is certainly obstruction within the meaning of the Section. Accordingly, I find the accused guilty as charged.

It is quite true she is of small stature and, by herself, the officers would not have had any difficulty and probably we would not have had the obstruction charge.

The result is, of course, Mr. Dalton, it becomes automatic on the second one. There is automatically a conviction on the second charge, so guilty on both.

--- (Whereupon submissions were made with regard to sentencing)

I would be inclined, in view of the circumstances, to make a direction of time served, plus a fine.

On the obstructing count there will be time served plus a fine of fifty dollars, or in default ten days.

With respect to the second, there will be a fine of seventy dollars; in default fifteen days consecutive to the first - that is, the default portion.

Pronounced at Inuvik, N.W.T.
Tuesday, March 2, 1976.

"W. G. Morrow"

W. G. MORROW