

SC OR 74 004

In the matter between:

HER MAJESTY THE QUEEN

Respondent

and

HOWARD A. JONES

Appellant

A Transcript of the Reasons
for Judgment of the Honourable
Mr. Justice W.G. Morrow, given
at Inuvik N.W.T. on the 14th
day of May AD 1974

O.J.T. Troy Esq. Q.C. appeared on behalf of the Respondent
The Appellant appeared without counsel.

Inuvik
Northwest Territories,
13 Aug 1974

TO: The Court of Appeal for
the Northwest Territories.

On the 13th day of Aug 1974

at Inuvik, Northwest Territories, I was

convicted on a charge of Impaired Driving

under Section 234 of the Criminal Code

before Police Magistrate R. Hilliard JP and was

sentenced to a fine of \$550.00.

I wish to appeal against the conviction

(~~or~~ sentence) on the following grounds: -

(a) The fine given by Mr. Hilliard was
too great in that this is my first

(b) conviction of this nature.

(c) _____

I am (~~am not~~) desirous of being present in
person upon the hearing of this appeal.

(Sgd.) [Signature]
(Appellant)

This form to be prepared in six copies.

Original and duplicate for the Court of Appeal, Yellowknife, NWT.
Copies to Informant, Convicting Court, Crown Counsel and
Appellant.

The Court: There are two appeals. Which one do you wish first.

Mr. Troy: Mr. Howard Allen Jones. The facts are much the same, and I would like them heard together.

The Court: Very well.

(Mr. Troy presented the facts on behalf of the Respondent, and the Appellant spoke on his own behalf)

The Court: Well, as I said a moment ago, Justice of the Peace Milligan is a very experienced Justice of the Peace, and has a good reputation in the Northwest Territories, and as a matter of fact, I should observe that there are very few appeals from Mr. Milligan, who is an exceptionally experienced man.

Now with respect to the appeal covering Section 234, impaired driving, where this is a first offence I am inclined to think on the circumstances of this particular case that a fine of three hundred and fifty dollars was a little bit high. I am not saying that three hundred and fifty dollars shouldn't be applied as a fine in some cases where the facts are rather heinous, but with the evidence

before me, I cannot see anything out of the ordinary in this case that would justify a high penalty. The section does provide a minimum penalty of fifty dollars and a maximum of five hundred, so under the circumstances I think I should allow the appeal to the extent of reducing this fine to two hundred and fifty dollars, the costs of three dollars and fifty cents will remain, and the default period of fourteen days will remain, with sixty days to pay, so to that extent the appeal is allowed, and you will receive a reduction of one hundred dollars if you have already paid the fine. There will be no costs of the appeal. The second appeal, the one pertaining to attending, I can see nothing that would justify my interfering with the local court, so the appeal is dismissed with no costs of appeal. All right, that's all I think on this one.

Mr. Jones, you will recall what the Crown Prosecutor pointed out, that Section 234 is a pretty tough section, because if you

happen to get in the same position again, there
is a minimum jail term for a second offence,
so you will keep that in mind, I hope.

W.G. Morrow
J.S.C.