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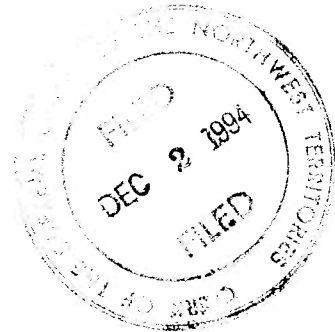
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

ANTHONY PAUL CHOCOLATE



Transcript of the Oral Reasons for Sentence delivered by The Honourable Mr. Justice J. Z. Vertes, at Yellowknife in the Northwest Territories, on Tuesday, November 29th A.D., 1994.

APPEARANCES:

MS. B. SCHMALTZ:

Counsel for the Crown

MR. K. ALLISON:

Counsel for the Defence

1 THE COURT:

2 Anthony Chocolate, also known as
3 Anthony Blackduck, has entered guilty pleas to four
4 charges, the first being a charge of theft of a motor
5 vehicle, specifically theft of property of a value in
6 excess of \$1,000, which theft occurred here in
7 Yellowknife on April 1, 1994.

8 He has also entered guilty pleas to charges of
9 failing to comply with a demand for a breath sample
10 and driving while disqualified, also here in
11 Yellowknife on August 20, 1994.

12 And finally, he has entered a plea of guilty to a
13 charge of breaching a recognizance by failing to
14 attend court in Fort Rae on October 3, 1994, for his
15 Supreme Court jury trial on the charge of theft that I
16 previously referred to.

17 The facts of all four offences have been agreed
18 to by counsel, and are contained in an agreed
19 statement of facts entered as an exhibit at this
20 hearing. I commend counsel for their work in doing
21 so.

22 I will not repeat those facts since they were
23 outlined in detail in the exhibit. Suffice it to say
24 that after the accused's arrest on April 1st for the
25 theft charge, he served time as a result of
26 convictions entered on other charges, and he was
27 released on August 18th. He was then arrested again
on August 20th, and this led to the charges of

1 refusing to provide a breath sample and driving while
2 disqualified. And he was, to my surprise, immediately
3 released. On October 3rd he failed to attend court,
4 although required to do so by the terms of his
5 recognizance, and he was arrested on November 3rd in
6 Alberta.

7 I recognize the fact that on both April 1st and
8 August 20th, he was apparently under the influence of
9 alcohol in both cases. In both cases he took vehicles
10 that did not belong to him and caused an extensive
11 amount of damage, and I think it is safe to say he
12 endangered the safety of others.

13 The accused is only 27 years old, but he has
14 accumulated in the past ten years a record of 36
15 criminal convictions. They are serious convictions.
16 He has been imprisoned for relatively lengthy periods
17 of time over the past ten years. There are numerous
18 offences related to the charges that have brought him
19 before the court today, and they also include crimes
20 of violence.

21 I give him credit for the guilty pleas he has
22 entered to these charges. I take that into account as
23 a significant mitigating factor. I also give credit
24 to him for the pre-trial period of incarceration of 26
25 days since his arrest.

26 But I can say this, that were it not for what I
27 take to be a joint submission of counsel, that an

1 appropriate global sentence for these offences would
2 be two years less a day, on the basis of his past
3 record I would have no hesitation in sending the
4 accused to the penitentiary. To my mind, the
5 overriding concern of the criminal law is protection
6 of the public.

7 Mr. Chocolate, through his behavior over the past
8 ten years has shown himself to be a menace to the
9 public. His counsel tells me that perhaps now Mr.
10 Chocolate is coming to a realization that he has to
11 change his way of life, that he has to come to grips
12 with whatever problems, whatever concerns he has about
13 living on the outside, whatever lack of control he has
14 when he consumes alcohol, and I sincerely hope that
15 now is the time when Mr. Chocolate is coming to grips
16 with that, because nobody but himself can do that. It
17 is up to him.

18 He is now the father of a young child. He has
19 spent a lot of time in jail in the past ten years, and
20 I would hope that by now he realizes that that is not
21 the example to set for his young child, and that it is
22 time for him to stand up and take responsibility for
23 his life and to come to grips with these problems.

24 So I will accept what I have heard from both
25 counsel, and I will impose a sentence that will be a
26 lengthy period of incarceration, but I hope that
27 during that period of incarceration Mr. Chocolate will

1 avail himself of whatever programs are available
2 within the correctional institution, to continue his
3 education upgrading, to perhaps achieve some skills
4 training, but I will also couple that with a period of
5 probation in the hope that with some support, Mr.
6 Chocolate can become an upstanding member of his
7 community and his family and be the type of father
8 that his young son deserves.

9 Stand up, please, Mr. Chocolate. Do you have
10 anything that you wish to say?

11 THE ACCUSED: No.

12 THE COURT: With respect to the charge of theft,
13 that's count one of the indictment in file 2596, I
14 sentence you to serve a term of imprisonment of 16
15 months. With respect to the charge of refusing to
16 provide a breath sample, that's the indictment in file
17 number 2760, I sentence you to serve a period of
18 imprisonment of six months consecutive. With respect
19 to the charge of driving while disqualified contained
20 in the indictment in file number 2762, I sentence you
21 to serve a term of imprisonment of three months, and
22 that will be concurrent. With respect to the charge
23 of breach of recognizance, I sentence you to serve a
24 period of incarceration of one month consecutive.
25 That's a total period of time of 23 months.

26 In addition, I direct that upon your release you
27 will be on probation for a period of one year. The

1 conditions and terms of that probation will be that
2 you are to report immediately on your release to the
3 probation officer, and that you will continue to
4 report as directed by the probation officer. You are
5 to participate in whatever counselling or
6 rehabilitative programs that your probation officer
7 may recommend for you. I will not impose any other
8 requirements since I think Mr. Chocolate is of an age
9 that he should recognize what will be required to stay
10 on the straight and narrow path as it were.

11 In addition, I will order under Section 725
12 compensation, first to Bernard Debassige in the amount
13 of \$1,912.86, and second, to the City of Yellowknife
14 in the amount of \$1,025.

15 Those compensation orders will be entered as
16 orders of the court, Mr. Chocolate, and at some point
17 you might find that it is just like being sued for
18 that debt, that they will be coming after you at some
19 point for compensation. You are the one who caused
20 these damages, and I think at some point you have a
21 responsibility to compensate these people for those
22 damages.

23 I will not order a victim of crime fine surcharge
24 under the circumstances. Is there anything else
25 that's required? You may have a seat, Mr. Chocolate.

26 MS. SCHMALTZ: A driving prohibition, My Lord?

27 THE COURT: What do you recommend? He is already

1 prohibited for what, two years?

2 MS. SCHMALTZ: He is prohibited for two years, My
3 Lord. I think though this being a subsequent offence,
4 that there is a mandatory driving prohibition of not
5 less than one year and not more than three years. The
6 Crown would suggest a driving prohibition in the mid
7 range, being this is the fourth offence.

8 THE COURT: Any comment, Mr. Allison?

9 MR. ALLISON: No, sir.

10 THE COURT: Then Mr. Chocolate's driving
11 privileges will be prohibited for a period of two
12 years. I should advise you, Mr. Chocolate, that with
13 respect to that probation order, if you do not comply
14 with the terms of the probation order, or if you
15 commit any further crimes while you are on probation,
16 you can be charged for that, and the terms of your
17 probation order can be changed. Do you understand?

18 THE ACCUSED: Yes.

19 THE COURT: I am sure your counsel will go through
20 and explain the sentence in detail with you. If there
21 is nothing else, I thank both of you, Ms. Schmaltz and
22 Mr. Allison. We will close court.

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(AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED.)

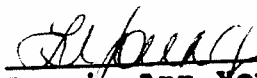
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Certified Pursuant to Practice Direction #20
dated December 28, 1987.

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Laurie Ann Young
Court Reporter