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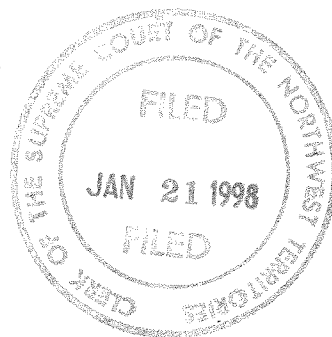
IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

JEREMY FRANCIS DANIELS



Transcript of the Reasons for Sentence
held before The Honourable Justice V.A. Schuler,
sitting in Rae, in the Northwest Territories,
on Thursday, the 15th day of January, A.D., 1998.

APPEARANCES:

Mr. S. Couper:

Counsel for the Crown

Mr. T. Boyd:

Counsel for the Defence

1 THE COURT: Well, as I just said to
2 Mrs. Daniels when she was testifying or as I pointed
3 out to her, in this case, the jury has arrived at its
4 verdict and I am, of course, bound by the jury's
5 verdict and I have to sentence him for what the jury
6 found him guilty of.

7 Now, in this case, the jury has found him guilty
8 of impaired driving, not guilty of causing the death of
9 Mr. Kodzin, so that is what I have to sentence him for.
10 As was referred to earlier, although the jury also
11 found him guilty of driving with over the legal limit
12 of alcohol in his blood, that arises out of the same
13 circumstances and so there has been a conditional stay
14 on that charge and I will be sentencing him for the
15 impaired driving only.

16 MR. BOYD: My Lady, I apologise for
17 interrupting. Mr. Daniels just asked me: Am I able to
18 say anything? And since there is that provision in the
19 Code --

20 THE COURT: Yes, I am sorry, Mr. Boyd. I
21 simply overlooked that. I should have asked him
22 whether he would like to say something. You can sit
23 there and say something if you like, Mr. Daniels.

24 THE ACCUSED: Ever since this accident happened,
25 I lived with it for almost 20 months now. Every time I
26 think about it, it hurts because before that, I used to
27 go caribou hunting with my friends and for my family.

1 I used to go out on the land, go hunting with my
2 uncles. I used to guide a lot. I used to play sports
3 a lot.

4 I learned a lot from this, from all the
5 counsellors that talk to me, spiritual healers,
6 friends. I am always going to wake up with the feeling
7 that I lost a friend because the time I was in Snare
8 with my son, he almost died on me. He stopped
9 breathing and me and her, we didn't know what to do, so
10 it hurt having your son in your arms without any
11 movement, so I ran to the nurse. While I was running:
12 "I will do anything. I will even stop drinking if you
13 just let my son live," I said. I got back. He was
14 crying. He was breathing.

15 When I went out on this, I ran out. I did drink,
16 and I did get punished for it, for losing a friend,
17 losing the respect of other people from Snare, and
18 anybody that has a grudge over me, comes to town,
19 there's reasons for everything. If it's not your time
20 to go, it's going to punish you and make you see. I
21 seen a lot and I heard a lot and I felt a lot.

22 Sometimes I wake up hoping. That's a dream that I
23 wake up to my son, but I look around. There's nobody.

24 They treat me with respect. A lot of people like
25 me, and I don't hate anybody. I probably would never
26 hate anybody from now on.

27 A lot of people talk to me about God and Jesus,

1 sending his son down here for us. I never understood
2 these things but every day since this accident, every
3 day, I woke up sometimes. I wanted to end it, thinking
4 about all different kinds of ways of doing it just to
5 take the easy way out. I pray. I pray to my friends,
6 even my friend that passed away to help me out, to make
7 me stand up to this, and nothing. It's just because I
8 don't have the courage to. I pray to my friends, my
9 counsellors, a lot of people. They need to be here
10 right now. I'm standing up to it and anything that
11 comes my way.

12 I don't know if I will ever walk again the way I
13 used to. I don't know if I ever do the things I used
14 to. I hurt a lot of people because of my stupidity,
15 and I know what I have to do now. Nobody knows a
16 person, the way he feels, but my life wasn't easy.
17 Like my mother said, I lost my father. I had nobody to
18 show me the way. I left trying to find a life of my
19 own.

20 The things that I used to do, I'm going to miss.
21 I used to play volleyball a lot. I used to go to a lot
22 of tournaments, used to travel a lot of places for
23 sports. I used to go to drum dances, band games. I
24 don't know if I will ever dance the way I used to.

25 THE COURT: Is that everything you wanted to
26 say, Mr. Daniels?

27 THE ACCUSED: When it's my day to leave this

1 world, I know I will be judged by greater, and I know
2 that he loves us, even though what people do. As long
3 as he has faith in us. I want to have faith in
4 myself.

5 My tears are coming out because people judge me.
6 Didn't God say not to judge others but himself? As
7 long as I love him, I hope to see my dad and my
8 friend. I hope I make it to the other side, but he's
9 never going to understand, going to have faith.

10 I tried to go to treatment centre but because of
11 the courts, I couldn't. I just -- I could find myself
12 and keep on living.

13 THE COURT: All right. Thank you,
14 Mr. Daniels. Thank you for speaking. I will just go
15 back to what I was saying before Mr. Daniels spoke and
16 again, I have to bear in mind the jury's verdict in
17 this case, that the jury has found that Mr. Daniels is
18 not guilty of causing the death of Mr. Kodzin.

19 Having said that, I take into account that there
20 are some aggravating factors about the incident.
21 Mr. Daniels' blood alcohol level was obviously accepted
22 by the jury as being over the limit, and I expect
23 within the range stated by Ms. Hak which was 180 to 240
24 milligrams percent and, therefore, at its lowest, over
25 twice the legal limit.

26 I take into account the evidence about his vehicle
27 going off the road and that he was, during part of his

1 driving, driving over the limit. I take into account
2 the background and by that, the fact as I say that the
3 vehicle went off the road. Now, all those are as I
4 said aggravating factors. They increase the
5 seriousness of the offence for which he has been found
6 guilty. I also take into account what was said about
7 the driving suspension that was put into effect earlier
8 on the day in question, and that too is an aggravating
9 circumstance.

10 I have to consider as well the mitigating
11 circumstances and in that regard, I consider the fact
12 that Mr. Daniels does not have a criminal record. He
13 is not an individual who has been convicted before of
14 drinking and driving offences.

15 I also take into account having observed him when
16 he was testifying and listening to him speak in court
17 just now, and I accept that he feels very badly about
18 what happened, that he is remorseful. Again,
19 notwithstanding the jury's verdict, it is clear to me
20 that he does feel responsible for what happened to
21 Mr. Kodzin and as Mr. Daniels himself said, that is
22 something he has to live with every day. There is no
23 doubt in my mind that that is not something that is
24 easy for him to live with.

25 Now, the usual penalty for the offence of impaired
26 driving in this jurisdiction is a fine and from my
27 experience, a fine usually in the range of somewhere

1 from 800 to \$1000. Mr. Couper, the Crown, I think is
2 being quite fair when he has indicated that even when
3 considering the aggravating, the serious aspects of
4 this offence, that what would be appropriate is a high
5 fine or a short period of incarceration, in other
6 words, jail.

7 I have to ask myself in the circumstances whether
8 any purpose would be served by sending Jeremy Daniels
9 to jail, and it is often said that one of the purposes
10 is to demonstrate to other people the serious nature of
11 drinking and driving and to try to discourage other
12 people from engaging in that type of conduct and also,
13 to show them how society, how the community frowns on,
14 disapproves of that kind of conduct. The question I
15 have to ask is whether, considering all the serious
16 circumstances, also considering the mitigating
17 circumstances, whether I should send Mr. Daniels to
18 jail for a short period of time.

19 In considering that, I am not convinced that it
20 would serve any purpose to do that, and I take into
21 account when I say that the fact that he is still
22 suffering from injuries that he sustained in the
23 accident. Obviously nothing that I do, nothing that
24 Mr. Daniels can do can bring back Mr. Kodzin. Nothing
25 can change what has happened and again, considering
26 that he has been found guilty of impaired only and I
27 have to sentence him for that only, as I say, balancing

1 all of the circumstances, in my view, this is not an
2 appropriate case for jail despite all those serious
3 circumstances.

4 I am sure, Mr. Daniels, that and I expect that you
5 will have learned a very difficult lesson from what has
6 happened and as I say, notwithstanding the jury's
7 verdict that they are not satisfied that you caused the
8 death of Mr. Kodzin, it is quite apparent to me that
9 you still feel responsible and that that is something
10 as I say that you will have to live with.

11 This is a tragic case as these cases so often are
12 because clearly, Mr. Daniels did not mean for anything
13 to happen, but it does illustrate the terrible and very
14 devastating consequences that result when someone
15 drinks and then gets behind a wheel of a motor
16 vehicle. I am sure that everyone in this community
17 realizes just how devastating that type of activity can
18 be.

19 In the circumstances, Mr. Daniels, I am going to
20 sentence you, and I want to make it clear again that
21 this is a sentence for the offence of impaired
22 driving. I am going to sentence you to pay a fine of
23 \$1500. I am going to prohibit you from driving a motor
24 vehicle for a period of six months starting today, and
25 I am going to give you six months to pay the fine. I
26 would suggest that you speak to the social worker in
27 Wha Ti about trying to work off the fine to the extent

1 that you might be able to.

2 Is there anything further that needs to be dealt
3 with?

4 MR. COUPER: Just the usual order regarding
5 disposition of exhibits after the appeal period. I
6 believe we just have documentary exhibits.

7 THE COURT: All documents and the
8 photographs?

9 THE CLERK: Yes, My Lady.

10 THE COURT: Well then, unless I hear something
11 from the Crown, I will make an order that at the expiry
12 of the appeal period or of the hearing of any appeal,
13 if one is filed, that the exhibits be returned to the
14 owners of same or destroyed.

15 MR. COUPER: Thank you, My Lady.

16 THE COURT: All right. Is there anything
17 further, counsel?

18 MR. BOYD: Not from the defence, My Lady.

19 THE COURT: All right. I want to thank you,
20 counsel, for your assistance in this very difficult
21 case.

22 Thank you. We will close court.

23 THE CLERK: Thank you, My Lady. Order, all
24 rise. Court is adjourned sine die.

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27 **ADJOURNED SINE DIE**

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Certified pursuant to Practice
Direction #20 dated December 28, 1987

Tara Taylor-----

Tara Taylor, CSR(A), Court Reporter