

CR 03244

## IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

HER MAJESTY THE QUEEN

Applicant

- and -

BRYAN HENRY JEROME

Respondent

## MEMORANDUM OF JUDGMENT

The accused faces a charge of sexually touching an underage girl, contrary to s.151 C.C. He initially elected trial by judge and jury, then subsequently re-elected to trial by judge alone. On August 21, 1996, he was committed to stand trial in this Court, after he had waived the holding of a preliminary inquiry.

The trial is scheduled to take place in Fort Smith on April 21, 1997.

The accused says he now wishes to re-elect his mode of trial again, to trial by judge and jury. The *Criminal Code* provides that he may only do so at this stage, i.e., following his committal for trial, with the written consent of the Crown prosecutor. That consent has not been given.

Through his counsel, the accused seeks Charter relief in these circumstances. It is submitted that the above-mentioned provisions of the *Criminal Code* are constitutionally invalid, being an unreasonable interference with his constitutional right to trial by a jury of his peers. It is also submitted that his earlier waiver of that right was not a valid waiver and that he is not bound by it.

I have considered carefully the evidence adduced and the representations made on the accused's Charter application. I find that the application is without merit, and it is hereby denied.

Reasons for this decision will follow.



J.E. Richard,  
J.S.C.

Dated this 7th day of April 1997  
Yellowknife, NT

Counsel for the Applicant:  
Counsel for the Respondent:

Ms. D. Sylvain  
Mr. P. Bolo

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