

CR 03669, CR 03670 and CR 03671

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

CR 03669

HER MAJESTY THE QUEEN

- and -

THERESA ARCHAMBAULT

- and -

CR 03670

HER MAJESTY THE QUEEN

- and -

DAVE PAUL

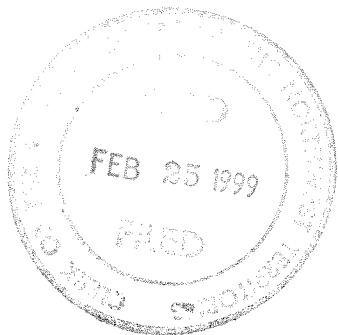
- and -

CR 03671

HER MAJESTY THE QUEEN

- and -

PETER BOUTEILLER



Transcript of a Decision delivered by The Honourable Justice
J.E. Richard, sitting at Yellowknife, in the Northwest
Territories, on Thursday, February 18, A.D. 1999.

APPEARANCES:

Ms. D. Sylvain:

On behalf of the Crown

Mr. D. Paul:

On behalf of himself and
Theresa Archambault

(Charge under s. 5(7) of the N.W.T. Fisheries Regulations)

1 THE COURT: On each of the Archambault and
2 Paul matters before the Court, the summary conviction
3 court below received a guilty plea on behalf of the
4 person charged with an offence under the federal
5 Fisheries Regulations. After hearing the circumstances
6 alleged by the Crown in support of a conviction and
7 certain submissions on behalf of the two offenders in
8 mitigation of the offences, the summary conviction
9 court directed that the Information or charge be
10 "withdrawn". Indeed, the record shows that each
11 Information is marked as having been "withdrawn".

12 A summary conviction court does not have
13 jurisdiction to withdraw an Information. It is for the
14 Crown to withdraw a charge when warranted, and not the
15 Court. Accordingly, the order of the summary
16 conviction court withdrawing the Information or
17 directing that it be withdrawn is invalid.

18 On the third file, Bouteiller, the summary
19 conviction court was merely told that the circumstances
20 were the same as on Archambault and Paul, and without
21 calling upon the accused person to plead to the charge
22 in the Information, the summary conviction court
23 directed that the Information be "withdrawn". For the
24 reasons already mentioned, that order or direction was
25 invalid.


26 On each file, then, the Crown's appeal is allowed
27 and each matter is remitted back for trial before a

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summary conviction court other than the summary
conviction court that first dealt with the matter.

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



Jane Romanowich
Court Reporter