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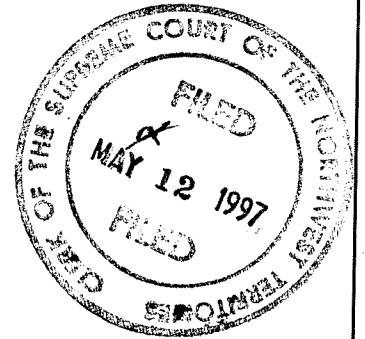
CR 03402

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES
IN THE MATTER OF:

REGINA

- VS -

ROBERT JOSEPH DENETHLON



Transcript of an Excerpt of Proceedings before Justice
J.Z. Vertes, at Yellowknife, in the Northwest Territories,
on the 25th day of April, A.D. 1997.

(Charge under Section 348(1)(b) C.C.)

APPEARANCES:

MS. M. NIGHTINGALE:	On behalf of the Crown
MR. H. LATIMER:	On behalf of the Defence

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1 (EXCERPT OF PROCEEDINGS)

2 **ROBERT JOSEPH DENETHLON**, called as a witness:

3 **EXAMINATION-IN-CHIEF BY MR. LATIMER:**

4 Q Your name is Robert Joseph Denethlon?

5 A Yes.

6 Q And you're the accused in this case?

7 A Yes.

8 Q And, Mr. Denethlon, do you remember the day you were
9 arrested in this charge?

10 A Yes.

11 Q And do you remember where -- when or where you were
12 taken when you were arrested?

13 A To the police detachment.

14 Q And approximately what time of day was that?

15 A Early in the afternoon, about 2:00 p.m.

16 Q All right. Now, approximately what time did they take
17 you in front of the Justice of the Peace?

18 A Around 11:00 o'clock p.m. in the evening.

19 Q And who was the Justice of the Peace?

20 A Mr. Shane Thompson.

21 Q And when did you first find out that day that you were
22 going to be taken in front of a Justice of the Peace
23 for a bail hearing -- was this for a bail hearing?

24 A I didn't really know what was going on until about just
25 around -- before 11:00, and they pulled me out and they
26 said I'm going out for a show-cause hearing or -- I
27 didn't know what's going on so I just followed the RCMP

1 that was on duty.

2 Q What time that day did you talk to a lawyer?

3 A Early in the afternoon.

4 Q Now did -- yes?

5 A He advised me not to say anything.

6 Q Okay. But what I'd like to know is at the time you
7 talked to a lawyer, did you know that you were going to
8 be facing a show-cause hearing that night?

9 A No.

10 Q And do you remember who the police officer was that
11 took you in front of the Justice of the Peace?

12 A Mr. Heron.

13 Q Now, what happened when you went in front of the
14 Justice of the Peace insofar as did you make any
15 requests?

16 A I didn't know how -- really understand what was really
17 going on 'cause I just woke up at the time and wasn't
18 really myself. All I know is that they wanted me
19 detained until this is over and done, done and dealt
20 with.

21 Q Did you or did you not ask them to adjourn it or put it
22 off until some other time?

23 A I didn't know that I could do anything, anything like
24 that, or -- I'm not really familiar with law system or
25 what...

26 THE COURT: Would you like to canvass with him
27 if he wishes to answer about any conversations with the

1 lawyer he consulted that afternoon about the prospect
2 of bail? I mean, he doesn't have to answer that
3 because --

4 MR. LATIMER: I realize that.

5 THE COURT: -- it's advice from counsel --

6 MR. LATIMER: But we've raised the point. Yes,
7 thanks, My Lord.

8 Q Did you have any conversations with the lawyer at all
9 that you talked to in the afternoon about getting out
10 on bail?

11 A Not that I can remember. All I can remember is he gave
12 me some advice, said not to say anything, and until I
13 see a lawyer or -- unless I was advised to one and that
14 was about all.

15 Q Had you -- I'd like to ask you this. What was your
16 condition that day? Had you or had you not been
17 drinking that day?

18 A I was under the -- I was drinking that day.

19 Q Before you were picked up?

20 A Yes.

21 Q How much had you to drink?

22 A About a couple of cups of rye.

23 Q All right. So were you in any way under the influence
24 of liquor when you were talking to the lawyer?

25 A No. I knew what I was saying then; I knew what I was
26 talking about.

27 Q So how long did the hearing -- just approximately from

1 your recollection, how long did the hearing before the
2 Justice of the Peace take?

3 A About 10 minutes, 15 minutes.

4 Q Was there anyone else involved in that hearing other
5 than the Justice of the Peace, yourself and the
6 Constable, Constable Heron?

7 A No.

8 Q Was this at the police station or some other place?

9 A This is inside the police detachment.

10 Q Okay. Mr. Denethlon, while you're on the stand there I
11 would perhaps just ask you a few questions about your
12 prospects should His Lordship -- His Lordship will be
13 canvassing the question of your release in that way
14 too.

15 Back then at that time, what were your
16 circumstances? This is December of 1996, right?

17 A Yes.

18 Q What were your circumstances then? Had you a job or
19 anything like this?

20 A No, I was under -- I was collecting unemployment, UIC.

21 Q You were?

22 A Yes.

23 Q What was that based on, some previous employment?

24 A Yes.

25 Q Whereabouts?

26 A For the Village of Fort Simpson, and the one before
27 that was Renewable Resources, but it's under a

1 different name, I forget, full-time seasonal
2 fire-fighter.

3 Q All right. And what about -- had you been intending to
4 take any kind of courses the following January?

5 A I was supposed to be in -- in a truck-driving course in
6 January, January 3rd. I was listed on the list there
7 to take that program, and prior to that --

8 Q Whereabouts would that be?

9 A Fort Simpson. And prior to that program I was supposed
10 to apply for -- like, we had a WHIMIS (phonetic)
11 program before, like, in November, a WHIMIS (phonetic)
12 program.

13 Q What is that?

14 A WHIMIS (phonetic).

15 Q What does that mean?

16 A It's safety, work hazard, it's something to do with
17 safety, it's a safety program that goes towards the BHP
18 diamond mine.

19 Q And had you attended any of that?

20 A Yes, I did. I finished -- I completed that in
21 December. And then January I was supposed to be in the
22 program to get my Class 1, and prior to that I was
23 supposed to put in my resume for BHP diamond mine.

24 Q Now, what type of work do you do? It's spring of the
25 year now. If you were released by His Lordship between
26 now and trial, what type of work would you be seeking
27 or attempting to get?

1 A During this time, the season, we usually get two weeks
2 prior to starting our positions, a safety-training
3 program or radio communication program prior to our
4 work.

5 Q Work where?

6 A For Renewable Resources as fire-fighters, to refresh
7 our memories on safety wise around equipment and safety
8 around helicopters and just be prepared to get ready
9 for work.

10 Q Last spring, did you fight fires?

11 A Yes.

12 Q And the spring before?

13 A Yes.

14 Q Okay. What about any other means of employment, that
15 if you were fortunate enough to be released, is there
16 any other area of employment that you've worked in and
17 that would seek now that it's spring?

18 A Excuse me, Rowe's Construction.

19 Q That's spelled R-O-W-E apostrophe S?

20 A Yes. Rowe's Construction has various jobs there like
21 for labourer, operator, carpentry. They always need
22 guys continuously because guys keep on getting laid off
23 for not showing up, not very dependable, and they
24 always need somebody almost every day, they don't know
25 for what kind of job, but if you're available and
26 dependable, they will hire you asap.

27 And another place is Dene Kon (phonetic) First

1 Nations, they hire guys for carpentry, drywall,
2 building construction.

3 Q Have you worked with them before?

4 A Yes, I have.

5 Q How do you spell that first, you said it's the First
6 Nations, but then you said Dene Kon (phonetic)?

7 A Dene Kon (phonetic) First Nations.

8 Q And if His Lordship did see fit to release with you,
9 would you promise to keep the peace and be of good
10 behaviour until your trial?

11 A Yes, I will.

12 Q And not contact your brother who, I understand, is
13 involved in this case; is that right?

14 A Yes.

15 Q You have family in Fort Simpson that -- where were you
16 living at this time?

17 A I was living at my parents, but I was living with my
18 common-law and doing what I can to help her.

19 Q You have some children?

20 A I got three children, two girls and one boy, ages are
21 four, three and two.

22 Q Now, there was some restrictions about you legally
23 seeing your common-law back then. Are those
24 restrictions still in effect?

25 A Not that, I believe. It's -- no, it's not.

26 Q How long have you been in custody now? Since the day
27 the JP held the session there in December?

1 A Yes.

2 Q And your counsel for the trial is Mr. Shabala?

3 A Yes, it is.

4 Q How far is it from Fort Simpson to Hay River?

5 A It's about two to three-hour drive from Fort Simpson.

6 MR. LATIMER: I haven't got any further
7 questions, My Lord. Thank you very much.

8 THE COURT: Miss Nightingale?

9 MS. NIGHTINGALE: Thank you.

10 CROSS-EXAMINATION BY MS. NIGHTINGALE:

11 Q Mr. Denethlon you told us that you talked to your
12 lawyer or a lawyer the first time in the afternoon of
13 the 17th; is that right?

14 A Yes.

15 Q Now, at that time you were under arrest; is that right?

16 A We were under --

17 Q You were being kept in cells anyways at the police
18 detachment?

19 A Yes.

20 Q And you had been there for several hours by that time?

21 A Yeah.

22 Q And they gave you some idea that they were going to
23 keep you for quite a while, or at least for a while
24 yet?

25 A They didn't really mention anything about that or --
26 about letting me go or how long I'm staying.

27 Q So they didn't tell you they were going to let you go?

1 A No.

2 Q So as far as you knew at that point you were going to
3 stay in jail for a while, right?

4 A Not that I know of.

5 Q You weren't worried about that at all?

6 A Well, like I thought they were going to release me on
7 an undertaking or bail, but I didn't know if I was
8 going to be kept in this long.

9 Q Okay. So you were at least wondering what was going to
10 happen, whether you were going to get out or whether
11 you were going to stay in; is that fair to say?

12 A Sort of, yeah.

13 Q And you were worried about that before you talked to
14 the lawyer?

15 A I talked -- I talked to a lawyer to give me advice on
16 my rights and what I was told to do, and that's what I
17 did.

18 Q Okay. You would have told the lawyer you were in jail,
19 I take it --

20 A Mm-hmm.

21 Q -- in the police cells, and you probably would have
22 asked about getting out; wouldn't you say so?

23 A That -- I never mentioned anything about that. All I
24 mentioned was -- all he mentioned was keep -- just
25 don't say anything, that's it.

26 Q That's all you remember at this point?

27 A Mm-hmm.

1 Q I take it there is parts of conversation you're just
2 not sure about anymore too?

3 A Yes.

4 Q Now, later then when the police came to get you, you
5 said you realized you were going to a show cause just
6 when they came to get you; is that right?

7 A That's when they pulled me out and that's when they
8 told me go in front of a JP.

9 Q And you knew at that point that it was to decide
10 whether you stayed in jail or whether you got out,
11 right?

12 A Yeah.

13 Q Now, did you ask to speak to a lawyer at that point?

14 A I didn't really know, like, if I, if I -- I mean, I
15 didn't really know anything about if I -- if there was
16 supposed to be a lawyer present with me.

17 Q When you got there you didn't see a lawyer, did you?

18 A No.

19 Q And did you ask then?

20 A No, they just proceeded with the show-cause hearing.
21 And from my understanding, I didn't know that I had the
22 right to have a lawyer present with me until now, like
23 until I spoken to a lawyer here. I wasn't advised
24 about that.

25 Q Is it fair to say that you wanted to get out of the
26 police cells?

27 A Yes.

1 Q And you thought that they would let you out on an
2 undertaking?

3 A Yes.

4 Q And you thought that if you just went through with this
5 show cause they would let you out?

6 A From my understanding is that my words weren't as -- I
7 knew my -- they wouldn't back up my word. At some
8 point, I -- I think I needed somebody present with me,
9 but my words weren't good enough for me to get back on
10 the street.

11 Q I take it that's what you figured out after. But when
12 you started this, didn't you just want to do it just to
13 try to get out?

14 A I wanted to try to get out, yeah.

15 Q And you were willing to do that without a lawyer?

16 A I didn't know I was -- I didn't know I could have a
17 lawyer. I didn't know that.

18 Q But it wasn't until after you realized it would have
19 been better to have a lawyer, right, after you did your
20 best?

21 A I didn't know, only later on. I didn't know anything
22 that I do know that I could have a lawyer and then have
23 a fair hearing, I didn't know until I got here.

24 Q Didn't the police officer ask you if you wanted to have
25 a lawyer?

26 A No.

27 Q Didn't he tell you that they could call a lawyer and do

1 it by phone?

2 A Not that I remember.

3 Q You don't remember the JP asking you the same thing?

4 A I remember the JP.

5 Q And the JP asked you if you wanted a lawyer?

6 A No.

7 Q Do you remember the JP saying they could bring you a
8 lawyer by phone?

9 A Not that I remember.

10 Q You just don't remember? Is there parts of that whole
11 evening you don't remember as well?

12 A I remember that, like, he just woke me up, and I just
13 got up and told me JP is here and you're going in front
14 of a JP.

15 Q But you knew what that meant? You knew it was about
16 getting out of jail, you've already told us that --

17 A Yeah.

18 Q -- or maybe staying inside. And you did think you
19 could do it on your own, didn't you?

20 A No, I didn't know.

21 Q But you tried to do it on your own?

22 A I tried -- I didn't know that -- if I knew I could have
23 a lawyer present with me then I would have had a better
24 chance maybe, but I didn't know at that time an
25 understanding of the procedures of the show cause or --

26 Q You've been through show causes before though, haven't
27 you?

1 A Yeah, in the past.

2 Q And have you always had a lawyer with you then?

3 A No, I've never had a lawyer. Just -- they just usually
4 let me go. They give me a summon and that's it.

5 Q So it's fair to say you thought you could do this by
6 yourself?

7 A Not really, no.

8 Q But you had done it by yourself before; why was this
9 different?

10 A Look at the charges I'm charged for.

11 Q And?

12 A I didn't know, like, I didn't know, like, I knew -- I
13 didn't know that I could, I could get a hold -- I mean,
14 I knew I could get a hold of a lawyer but they never
15 advised me at that time or if I -- if I could have a
16 lawyer present at my hearing.

17 Q So now you --

18 A But it was my charges, from my three charges I got on
19 me, I knew at some point I didn't -- most likely would
20 be in custody because I didn't have any strong support
21 or any backup, or I don't know.

22 Q Now, when you started that sentence you said you knew
23 you could have a lawyer with you?

24 A I thought I could have a lawyer.

25 Q Okay. So you did --

26 A But I didn't know at that time. At that time, I didn't
27 know. That's it.

1 Q Did you, at any time when you realized things weren't
2 going well, did you ever ask them can I get a lawyer?

3 A I just asked them during the day when they arrested us
4 when they arrested me, and that's when I got a hold on
5 a lawyer, that's the only time. And the other times
6 are they told me not to say anything or do anything,
7 and that's it, and never talked to them again.

8 Q And when the show cause wasn't going well, did you ask
9 them then if you could get a lawyer?

10 A No.

11 Q But you knew at that point you wanted a lawyer, or was
12 it after the show cause that you decided you wanted a
13 lawyer?

14 A It was when I got to -- when I got here to Yellowknife,
15 that's when -- that's when I was told I could have a
16 lawyer present, but I didn't know that I could have a
17 better chance with a lawyer beside me at that time.

18 Q So it wasn't until after the show cause you thought it
19 would have been a good idea to have a lawyer?

20 A Yes.

21 Q Okay. Now, talking about the jobs that you had before
22 you were in jail, fire-fighting was the last job you
23 had; is that right?

24 A For last year or --

25 Q Well, the last job you had, what was that?

26 A For Village of Fort Simpson.

27 Q And that was fire-fighting?

1 A No, that's -- they do town maintenance, like labour and
2 water and sewage maintenance and road maintenance and
3 whatever maintenance needs to be done around the
4 community. And before that, I was working for the
5 Department of Renewable Resources.

6 Q Now, in your affidavit, this document here, you talked
7 about the fact that you would find employment in your
8 home community. Has anyone told you they will hire
9 you?

10 A I know I can get a job with Mr. -- I mean with Rowe's
11 Construction because I've been working with them before
12 for -- I had no problems with Mr. Owen -- his name is
13 Mr. Owen Rowes. I had no problem getting a job with
14 them as long as I showed up every day and get to work
15 on my own and had no problems.

16 Q But you haven't talked to him recently, have you?

17 A No.

18 Q Not since going into jail?

19 A No.

20 Q And you've not talked to anybody else who might give
21 you a job recently?

22 A No, because I didn't know what was going on with my
23 bail review or my bail hearing. I didn't know -- I
24 didn't know when I was -- when my bail hearing was
25 going to be happening and I thought things were going
26 to be on my side. But I've been trying, like, getting
27 through with my sister who has access to phones in my

1 community.

2 Q Okay. In that other paragraph in the affidavit, you
3 went on to say that you would have support there from
4 your family. What does that mean exactly?

5 A That means --

6 Q What do you expect your family will do for you when you
7 get out?

8 A They will support me by emotionally, give me a place to
9 stay and support me in my going to meetings, to AA
10 meetings, and then in that environment there'll be no
11 drinking allowed and that will be -- will enable to go
12 to work and looking for work at the same time, and I'll
13 have a place to stay.

14 Q So is there someone who's told you you could stay with
15 them?

16 A Yes.

17 Q Who's that?

18 A That's my common-law wife.

19 Q So that's not just moral support you expect from her,
20 but actually a place to stay?

21 A Yeah. To help her, too, at the same time 'cause right
22 now she's on social assistance and that doesn't really
23 get through a month's --

24 THE COURT: This is the woman you were ordered
25 to stay away from?

26 A Yeah.

27 THE COURT: Okay.

1 A While I was at the Fort Simpson detach -- excuse me.
2 While I was at the Fort Simpson detachment I had prior
3 visits from her and they had no problems with that,
4 with the police or the sergeant, and we had closed --
5 open and closed visits, open visits, I guess, the same
6 thing, and they didn't say anything. But she needs my
7 help. She's having a hard time with our three kids and
8 I want -- I want to be able to be there to help her out
9 as much as I can, financially and emotionally and
10 physically.

11 Q How many people live with Carol Hardisty right now?

12 A Just the three kids.

13 Q She has a house all to herself with the three kids?

14 A Yeah.

15 Q Your other family, do they live nearby?

16 A My parents, no, they live about -- about almost a mile
17 away, a quarter mile, say, I don't know, one end of
18 town to the other end of town.

19 Q Where does your brother Phillip live?

20 A He's not living at my parents. I think he's living
21 with Walter McPherson who takes him out on the land, in
22 the bush. They go for two, three, a month, but right
23 now I think there is -- from my sister's -- from the
24 answer my sister gave me, she said they're supposed to
25 be going spring hunting, so be about a month, two
26 months out there, they'll be staying out in the bush.
27 And the person that he's staying with doesn't drink and

his -- he's about the same age as my brother.

2 Q Okay. Now, just to jump back to the show cause for the
3 last few questions, I take it that what happened was
4 that the police officer read to the JP what they said
5 happened on the night before; do you agree that that
6 happened?

7 A No.

8 Q They didn't talk about what you were supposed to have
9 done?

10 A No. They just told me that I'm charged for these three
11 B&E charge and that I'm charged here -- and that I'm
12 charged, when I went to the JP, that I'm charged and
13 that they're going to detain me in custody.

14 THE COURT: Miss Nightingale, the endorsement
15 on the original Information reads that the charges were
16 read, and unless there is some issue taken with that, I
17 think we could presume regularity on that point.

18 MS. NIGHTINGALE: Sure, thank you.

19 Q Were you given a chance to explain to the JP stuff
20 about yourself as well, personal things?

21 A Yeah, I told him I was on -- yes, I, yes, I have.

22 Q So you got to tell him where you'd be living and what
23 you'd be doing if they let you go?

24 A Yeah.

25 Q And they didn't cut you off or give you any problems
26 with that?

27 A No.

1 Q And do you feel that you explained to them as best you
2 could what you would do if you were let out of jail at
3 that point?

4 A I didn't know -- if I knew I could have a lawyer
5 present at the time maybe I'd have a better chance, but
6 I tried my best, yes.

7 MS. NIGHTINGALE: Thank you, that's all.

8 THE COURT: Re-examination?

9 MR. LATIMER: I just want to clear up one
10 thing.

11 RE-DIRECT EXAMINATION BY MR. LATIMER:

12 Q If you weren't able to stay at your ex-common-law's
13 place, is there any other place you could live in Fort
14 Simpson?

15 A Yes, my sister Josephine.

16 Q How many brothers and sisters do you have other than
17 Phillip?

18 A With my brother Phillip, I have three brothers and I
19 have two sisters.

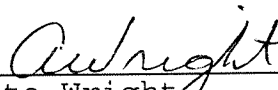
20 Q And are your father and mother still living in Fort
21 Simpson?

22 A Yes.

23 MR. LATIMER: I have no further questions.
24
25
26
27

THE COURT: That you. Mr. Denethlon, you can
return to the box
(WITNESS RETIRES)
(CONCLUSION OF EXCERPT)

Certified correct to the best of
my skill and ability.



Annette Wright
Court Reporter

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