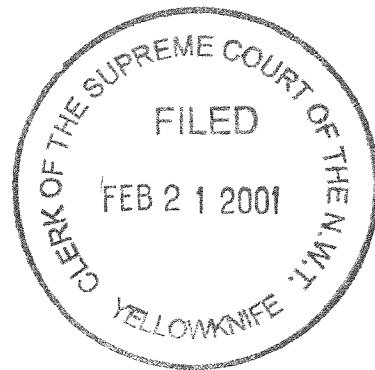


IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

ALFRED HILAIRE



- v -

HER MAJESTY THE QUEEN

Transcript of the Reasons for Judgment of The Honourable Justice J.E. Richard, sitting in Yellowknife, in the Northwest Territories, on the 8th day of February, A.D. 2001.

APPEARANCES:

Mr. S. Duke:	Counsel for the Appellant
Ms. D. Robinson:	Counsel for the Respondent

1 THE COURT: In this case, the appellant was
2 convicted of the summary conviction offence of
3 unlawful sale of liquor contrary to Section 84 of the
4 Liquor Act. That conviction followed a trial before
5 a lay Justice of the Peace in Fort Resolution.

6 The appellant says that he was wrongly convicted
7 and has filed an appeal in this Court. Having
8 reviewed the trial transcript and counsels' filed
9 briefs, and having considered counsels' submissions
10 today, I am satisfied that there is merit in the
11 appeal and that the conviction ought to be set aside.
12 There was simply no proper evidence before the
13 Justice of the Peace upon which to convict the
14 appellant for unlawfully selling liquor to Ms.
15 Sayine.

16 There were only two witnesses at trial, the
17 first witness, Jill Reimer was found by the trial
18 judge to be a credible witness. Ms. Reimer testified
19 that she saw Irene Sayine give the appellant \$25.
20 Ms. Reimer did not see any liquor or any bottle. Her
21 evidence is insufficient, by itself, to prove the
22 sale of liquor by the appellant to Ms. Sayine.

23 The other witness was Irene Sayine. She had
24 apparently earlier given a statement to the RCMP when
25 she stated she bought a bottle of rum from the
26 appellant for \$25. However, she did not adopt that
27 statement when it was shown to her at trial. Indeed,

1 she refuted it. That statement was, therefore, not
2 evidence of the sale of liquor by the appellant to
3 Ms. Sayine.

4 In her testimony, Ms. Sayine denied that she
5 bought a bottle from the appellant. The trial judge
6 found Ms. Sayine was not being truthful in her
7 testimony.

8 It was clearly within the jurisdiction or role
9 of the Justice of the Peace to believe the witness
10 Jill Reimer and to disbelieve the witness Irene
11 Sayine. However, as trial judge, he still did not
12 have before him evidence of the commission of the
13 offence.

14 The statement of Irene Sayine to the police, not
15 having been adopted by Ms. Sayine at trial, was not
16 evidence for the trial judge to consider as proof of
17 the commission of the offence.

18 For these reasons, I grant leave permitting the
19 late filing of the Notice of Appeal. The appeal is
20 granted and the conviction is set aside. Thank you,
21 counsel.

22 MS. ROBINSON: Thank you.

23 MR. DUKE: Thank you.

24 THE COURT: We'll close court.

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

Sandra Burns R.P.R, C.R.R.
Court Reporter