

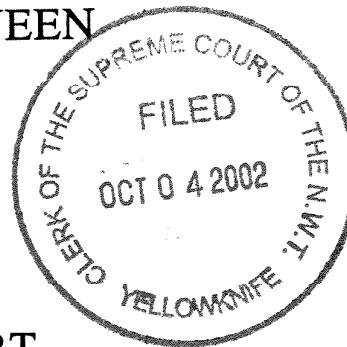
R. V. Hiebert, 2002 NWTSC66
S-1-CR-2002000078

IN THE SUPREME COURT
OF THE NORTHWEST TERRITORIES

HER MAJESTY THE QUEEN

VS.

JAMES GUY HIEBERT



Transcript of Reasons for Judgment held before
The Honourable Justice J.Z. Vertes
at Hay River, Northwest Territories,
on the 18th day of September, A.D. 2002.

J. Burke, Esq.

G. Hiebert, Esq.

D. Boucher,

Appeared for the Crown

Appeared on his Own Behalf

Court Reporter

(Charged under Section 253(b) of The Criminal Code)

PROVIDED BY

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1 **THE COURT:** In this case the Crown has
2 appealed the sentence imposed on the Respondent
3 who pled guilty to a charge of operating a motor
4 vehicle while his blood alcohol level exceeded 80
5 milligrams of alcohol in 100 milliliters of blood
6 contrary to S.253(B) of the Criminal Code.

7 The sentence imposed by the Justice of the
8 Peace was a fine of \$600 plus the usual victims
9 of crime fine surcharge and one year probation.
10 The Justice of the Peace declined to impose a
11 driving prohibition as required by S.259(1)(a) of
12 the Criminal Code.

13 It appears that the Justice of the Peace
14 was motivated first by some concerns about
15 Mr. Hiebert's personal circumstances and second
16 by the mistaken impression that the prosecution
17 was under a requirement to serve notice of the
18 demand for a driving prohibition.

19 There is no notice requirement for a driving
20 prohibition and indeed the Criminal Code makes
21 such a driving prohibition mandatory even on a
22 first offence, even on a first offender. And the
23 Criminal Code provides that the driving
24 prohibition must be of a minimum of one year.
25 There is no discretion, either in the Justice of
26 the Peace or in this Court, to waive that
27 requirement.

1 So while I can appreciate some of the
2 concerns that led the Justice of the Peace to
3 forgo imposing a driving prohibition in this
4 particular case, it is clear that the Justice of
5 the Peace erred in law and the appeal must be
6 allowed. Therefore, the sentence is varied by
7 adding to it a driving prohibition for a period
8 of one year.

9 My Order, however, will be stayed until
10 October 15th, 2002. The Order will not take
11 effect until that date. The one year driving
12 prohibition will commence on that date and last
13 for one full year from that date.

14 I direct the Respondent, Mr. Hiebert, to
15 forward his Driver's Licence to the Clerk of the
16 Territorial Court here in Hay River on that date
17 either in person or by mail so that the
18 Territorial Clerk can comply with the usual
19 procedures in forwarding the licence to the
20 Registrar of Motor Vehicles.

21 I remind Mr. Hiebert that this is in
22 addition to the rest of the sentence that the
23 Justice of the Peace imposed which, under the
24 circumstances, the various items of the
25 disposition, the fine and the probation period,
26 seem to me to be quite appropriate and will
27 remain in full force.

1 Mr. Burke, I ask that you prepare a formal
2 Order including the proviso for the stay and the
3 effective date of the prohibition. The Order
4 may be filed without the need of obtaining
5 Mr. Hiebert's approval as to form and content.

6 **MR. BURKE:** Thank you, Your Honour.

7 **THE COURT:** I should say, Mr. Hiebert,
8 that if by any chance you are charged with a
9 criminal offence, particularly a drinking and
10 driving offence between now and October 15th, the
11 Crown will have leave to apply forthwith to me
12 without notice to you to lift the stay. Am I
13 making myself clear?

14 **MR. HIEBERT:** Yes.

15 **THE COURT:** So your Driver's Licence is
16 still effective until October 15th, Mr. Hiebert,
17 and then the prohibition will take effect on that
18 date.

19 **MR. HIEBERT:** You will be sending a
20 transcript to Beatrice Lepine?

21 **THE COURT:** Yes, a transcript of my
22 Reasons for Judgement.

23 **MR. HIEBERT:** Am I done, then?

24 **THE COURT:** You are done. Thank you.

25 (MATTER ADJOURNED)

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I, David Boucher, Court Reporter, hereby
certify that I attended the above-mentioned
Matter and took faithful and accurate shorthand
notes, and the foregoing is a true and accurate
transcript of my shorthand notes to the best of
my skill and ability.

Dated at the City of Calgary, Province of
Alberta, this 26th day of September, A.D. 2002.



David Boucher C.S.R. (A)