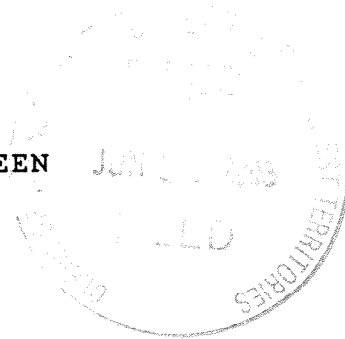


IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN



- v -

JOSEPH NORBERT HORESAY

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Transcript of the Oral Reasons for Sentence by The Honourable Justice J. Z. Vertes, sitting in Hay River, in the Northwest Territories, on the 16th day of June, A.D., 2003.

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APPEARANCES:

Mr. J. Burke: Counsel for the Crown

Mr. M. Hansen: Counsel for the Defence

1 THE COURT: In this case Joseph Norbert  
2 Horesay has pleaded guilty to a charge of operating a  
3 motor vehicle with a blood alcohol concentration  
4 exceeding 80 milligrams, contrary to Section 253(b) of  
5 the *Criminal Code*.

6 The facts related to me are that on November 2nd,  
7 2002, at approximately 11 p.m., the accused was found  
8 sitting in the driver's seat in a vehicle stuck in a  
9 ditch. He exhibited visible signs of impairment; he  
10 was verbally abusive to the officers; he was taken to  
11 the police detachment where he provided two breath  
12 samples, each of which exceeded 300 milligrams of  
13 alcohol in 100 milliliters of blood.

14 This is not the first conviction of this type of  
15 offence for the accused. He has six prior drinking  
16 and driving offence convictions, the last one being in  
17 1998 when he was sent to prison for 16 months and  
18 prohibited from driving for a period of three years.  
19 These six prior convictions are part of an extensive  
20 criminal record of what I count to be 55 convictions  
21 between 1975 and 2003.

22 The accused has been referred to as an alcoholic;  
23 he refers to himself as a recovering alcoholic. He  
24 has gone through three previous treatment programs,  
25 and for various reasons those programs were  
26 unsuccessful. He is 45 years of age, married with  
27 three children. He works in the construction trades,

1 and currently he is serving a ten-month sentence  
2 imposed on May 5th, 2003, for five unrelated offences.

3 Crown counsel has quite correctly, in my opinion,  
4 emphasized the need for general and personal  
5 deterrence. Indeed, with the type of repetitive  
6 behavior exhibited by the accused, the safety of the  
7 public must be the paramount consideration. Crown  
8 counsel has suggested a sentence of imprisonment of  
9 two years less one day, or thereabouts, plus an  
10 extensive driving prohibition period. When I consider  
11 the record, I think there is justification for a  
12 sentence of that magnitude. The only real issue, in  
13 my mind, is whether that sentence should be concurrent  
14 or consecutive to the current sentence.

15 I have been told that plans have been made for a  
16 work release program for the accused so that he can  
17 help in the support of his family, notwithstanding the  
18 fact that he is serving a sentence, and he has already  
19 taken part in a relapse prevention program in the  
20 South Mackenzie Correctional Centre, and there are  
21 other plans in the works. I am told that some of  
22 these plans may be jeopardized by his being moved out  
23 of the South Mackenzie Correctional Centre should I  
24 impose a sentence that in totality, along with the  
25 sentence he is currently serving, exceeds two years.

26 The accused certainly spoke very well for  
27 himself, talking about his awareness of his past

1 problems, and the need to come to grips with those  
2 problems for himself and for the sake of his family.  
3 I was quite impressed by how he expressed himself. My  
4 only hope is that he means what he says, and that he  
5 intends to follow through on his sentiments. He  
6 strikes me as an intelligent man, he obviously has  
7 quite a number of skills, and there is no reason why,  
8 with effort obviously, and with the assistance of  
9 others obviously, he cannot finally put his problems  
10 behind him.

11 The *Criminal Code* requires me to give special  
12 consideration to the circumstances of aboriginal  
13 offenders. I was told nothing here about any  
14 particular systemic factors that has led this man to  
15 come to court, although I can take cognizance of all  
16 sorts of systemic factors in northern communities that  
17 have led people like this accused to a lifelong  
18 pattern of alcohol and other substance abuse problems.  
19 Notwithstanding that, this is the type of offence  
20 where a sentence cannot deviate much from the sentence  
21 that would be imposed on any other offender. It is a  
22 crime that calls into question public safety in very  
23 dramatic terms. Circumstances here were minimal, but  
24 the accused himself, I am sure, recognizes the  
25 potential danger of drinking and driving, or at least  
26 he should. For that reason, I see no alternative but  
27 to impose a significant deterrent sentence.

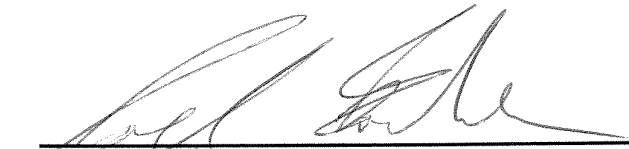
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However, considering all of the circumstances, I think it is important to maintain whatever plans or programs have been put into place, or are planned for this accused, and I do not see much point in jeopardizing those plans by imposing a sentence that would put this accused into the category of a federal offender.

For that reason I impose a sentence of imprisonment of two years less one day, that sentence to be served concurrently with the sentence that he is currently serving. In addition, I impose a driving prohibition for a period of five years. Under the circumstances there will be no victim of crime fine surcharge.

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Certified to be a true and accurate transcript, pursuant to Rules 723 and 724 of the Supreme Court Rules

  
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Joel Bowker  
Court Reporter