

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN



- v -

KEITH DESMOND THISTLE

Transcript of the Oral Reasons for Sentence by The Honourable Justice J. Z. Vertes, sitting in Hay River, in the Northwest Territories, on the 20th day of June, A.D., 2003.

APPEARANCES:

Mr. A. Bernard:	Counsel for the Crown
Mr. M. Hansen:	Counsel for the Defence

1 THE COURT: In this case Keith Desmond
2 Thistle has entered a plea of guilty to operating a
3 motor vehicle while having consumed alcohol in such a
4 quantity that the concentration thereof in his blood
5 exceeded 80 milligrams of alcohol in 100 milliliters
6 of blood.

7 I was told that on November 29th, 2002, here at
8 Hay River, at about noon, several people observed
9 Mr. Thistle driving, and also observed him park his
10 vehicle and get out. They formed the impression that
11 he was impaired and contacted the RCMP. The RCMP
12 attended at the scene where they found his vehicle
13 parked; they confronted Mr. Thistle. The officers
14 formed the opinion that he had been drinking and took
15 him to the detachment, where Mr. Thistle provided two
16 breath samples. The readings of those breath samples
17 were 270 and 260 milligrams of alcohol in 100
18 milliliters of blood.

19 As noted by Crown Counsel, these readings are
20 over three times the legal limit. Also as noted by
21 Crown Counsel, this is highly significant, because
22 Section 255.1 of the *Criminal Code* specifically states
23 and directs the Court to the effect that evidence that
24 the accused's blood alcohol level exceeds 160 at the
25 time that the offence was committed is deemed to be an
26 aggravating factor on sentencing.

27 This is an express direction to the Courts by the

1 Parliament of Canada that situations such as this,
2 where someone gets behind the wheel of a car, having
3 consumed a significant quantity of alcohol, and
4 thereby increasing the danger to public safety, in
5 such a situation the Courts must consider it to be an
6 aggravating factor, which means that a deterrent
7 sentence is required.

8 When I say "deterrent," I mean deterrence not
9 just for Mr. Thistle himself, so that he realizes that
10 this type of conduct will be met with grave
11 consequences, but deterrence for others so that they
12 realize as well that this type of conduct, while
13 seemingly innocuous, and the type of conduct that
14 happens all over the country by people of all classes
15 and backgrounds, that this type of conduct will be
16 treated seriously. I cannot ignore that explicit
17 direction from Parliament.

18 Also aggravating is the fact that the accused has
19 a record of 18 criminal convictions from 1975 to 1996;
20 most significant is the fact that eight of those
21 convictions are for related offences. The last one
22 was a conviction for impaired driving in 1996, and at
23 that time he was sentenced to four months imprisonment
24 and prohibited from driving for two years.

25 The accused is 50 years old. He has been
26 described to me as a chronic alcoholic. He is able to
27 hold down steady employment. I was told that he was

1 able to deal with his alcoholism for several years,
2 but then slid back. He has other significant health
3 issues.

4 I must say that I was quite impressed listening
5 to the accused. I thought he expressed himself very
6 eloquently and clearly. He stated to me a recognition
7 that he has to come to grips with not only his
8 problems with alcohol abuse, but other significant
9 underlying issues that only now he is becoming aware
10 of. Of course it is easy to say those words; it is
11 another thing to follow through and actually do
12 something about them.

13 I have no alternative but to impose a significant
14 sentence for this offence, because of the aggravating
15 factors I have noted. I am, however, inclined to
16 moderate that sentence to a certain extent based on
17 what I have heard, and considering the fact that,
18 notwithstanding that there are eight prior related
19 offences, the last one was seven years ago. Stand up,
20 Mr. Thistle.

21 I sentence you to a term of imprisonment of 12
22 months. In addition, I place you on probation for a
23 period of one year from the date of your release. The
24 conditions of your probation are that you are to
25 report to and be under the supervision of a probation
26 officer; that you are to abstain absolutely from the
27 consumption and possession of alcohol and

1 nonprescription drugs of any sort; that you are to
2 submit, on demand of a peace officer, to providing a
3 sample of your breath for analysis; that you are to
4 attend any treatment or counselling programs as
5 recommended and advised by your probation officer. Do
6 you understand those terms and conditions?

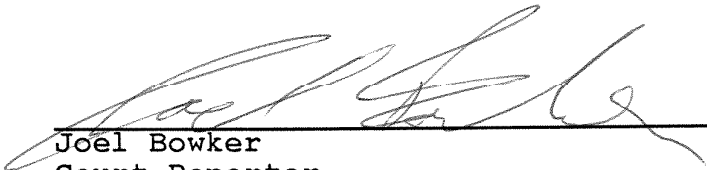
7 THE ACCUSED: Yes, Your Honour.

8 THE COURT: Now, I should advise you,
9 Mr. Thistle, that if you breach any of those terms and
10 conditions you can be charged for that. That is a
11 criminal offence, and you can be brought into court
12 and sentenced. Do you understand that?

13 THE ACCUSED: Yes.

14 THE COURT: In addition, I impose a driving
15 prohibition for a period of three years. That is the
16 statutory minimum. I had been inclined to impose a
17 condition even longer. I just hope that your good
18 words, your eloquent words, have some substance to
19 them and that you will actually follow up on them.
20 Under the circumstances there will be no victim of
21 crime fine surcharge. You may have a seat.

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

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27 _____
Joel Bowker
Court Reporter