

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- v -

JASON LAROCQUE

Transcript of the Reasons for Sentence by The Honourable
Justice S. H. Smallwood, sitting in Yellowknife, in the
Northwest Territories, on the 26th day of May, 2017.

APPEARANCES:

Ms. M. Zimmer: Counsel for the Crown
Mr. C. Davison: Counsel for the Defence

Charge under s. 259(4) Criminal Code of Canada

1 THE COURT: Jason Larocque has entered
2 a guilty plea to a charge of driving while
3 disqualified contrary to Section 259(4) of
4 the Criminal Code.

5 The facts, which were provided in an Agreed
6 Statement of Facts, are that Mr. Larocque had
7 been sentenced for two driving while disqualified
8 offences. He was, at the time of this offence,
9 subject to two different driving prohibitions.
10 The first was from October 22nd, 2012, in the
11 Territorial Court, where he was ordered pursuant
12 to Section 259 of the Criminal Code that he be
13 prohibited from operating a motor vehicle on any
14 street, road, highway, or other public place for
15 a period of five years consecutive to any other
16 driving prohibition. The order of prohibition
17 was attached to the Agreed Statement of Facts.

18 On November 7th, 2015, at approximately
19 2:30 in the afternoon, the RCMP received a
20 report of a possible impaired driver in
21 Hay River, Northwest Territories. The RCMP
22 responded and began patrols to attempt to
23 locate the vehicle. They located the vehicle
24 matching the description driving in Hay River,
25 and then the vehicle parked beside The Source
26 in Hay River.

27 Constable Newcombe of the RCMP turned on

1 his emergency lights and parked behind the black
2 Ford Escape, which apparently was the vehicle in
3 question. While exiting the vehicle the members
4 of the RCMP observed through the window that the
5 two individuals in the vehicle were switching
6 seats. The officer approached the passenger
7 side, which was now occupied by Jason Larocque.
8 The officer recognized him, and upon opening the
9 door noticed that there was an odor of marijuana,
10 along with an open bottle of vodka between the
11 center console and the passenger seat.

12 There was another male in the vehicle.
13 Constable Newcombe asked Mr. Larocque why they
14 had switched drivers, to which Mr. Larocque had
15 responded that he was not driving. Constable
16 Newcombe observed that Mr. Larocque had a dazed,
17 blank stare to his eyes, and at that time he
18 was arrested for possession of a controlled
19 substance, along with being detained for
20 impaired driving. Ultimately he was not
21 charged with impaired driving.

22 Subsequent checks performed by Constable
23 Newcombe indicated that Mr. Larocque was
24 prohibited from driving, and so he was arrested
25 for driving while prohibited, and the vehicle
26 that Mr. Larocque had been driving was registered
27 to his common-law spouse. Mr. Larocque was

1 subsequently released on a promise to appear
2 and also served with some SOTI tickets, to
3 which he pled guilty, and he also pled guilty
4 with respect to a possession of marijuana charge
5 arising from this incident. Mr. Larocque has
6 been detained in custody on this and other
7 matters since November 13th, 2016.

8 The Crown has filed the Notice of Intention
9 to Seek Greater Punishment, which means, because
10 it is more than Mr. Larocque's third conviction
11 for driving while disqualified, that he is
12 subject to the following minimum penalties:
13 120 days imprisonment and a three-year driving
14 prohibition.

15 The criminal record of Mr. Larocque was
16 also filed, and it shows that over a period
17 from 1994 to 2017 he has 35 convictions, starting
18 in Youth Court and continuing up to earlier this
19 year. There are four convictions for impaired
20 driving or over 80 on his criminal record, and
21 there are also nine convictions for driving
22 while disqualified, starting from 2001 to 2014.

23 In 2001 Mr. Larocque was first convicted
24 of driving while disqualified and at that time
25 received a sentence of 60 days imprisonment.
26 He was subsequently convicted of driving while
27 disqualified in 2002 and received four months

1 imprisonment. In 2004 again receiving four
2 months imprisonment. In 2005 receiving five
3 months imprisonment. In 2007 receiving a
4 sentence of one day, but being given credit
5 for three months of pre-trial custody.
6 In 2009 receiving five months imprisonment.
7 In 2012 receiving six months imprisonment.
8 Again in 2012 six months imprisonment, and
9 in 2014 receiving six months imprisonment.

10 He is currently prohibited from driving.
11 There are two driving prohibitions from February
12 27th, 2009. At that time he was convicted and
13 was sentenced to a ten-year driving prohibition.
14 He was convicted for driving while disqualified.
15 Also, in February of 2014 he was also convicted
16 again for driving while disqualified and received
17 a nine-year driving prohibition consecutive
18 to the driving prohibitions that he was on.
19 As well, there was a driving prohibition from
20 October 22nd, 2012, which was five years, which
21 was consecutive to any other outstanding driving
22 prohibition order. So Mr. Larocque is currently
23 on three driving prohibitions. He is prohibited
24 from driving until February of 2028.

25 Mr. Larocque is an aboriginal offender.
26 I have not heard much specifically about
27 his background or any specific factors which

1 might have impacted upon him. I heard from
2 Mr. Larocque earlier this week that his
3 parents were residential school survivors,
4 and he was raised in an environment where
5 there was drinking, and that did have an
6 impact upon him. I have heard that he has
7 a grade 7 education, that he has worked, and
8 that he has done some traditional activities.
9 He has spent some time in the bush and has
10 worked as a guide at a lodge in the Talston
11 River.

12 The fundamental purpose of sentencing
13 according to Section 718 of the Criminal Code
14 is to protect society and to contribute to
15 respect for the law and the maintenance of
16 a just, peaceful and safe society by imposing
17 just sanctions. The objectives of the sanctions
18 include the denunciation of unlawful conduct,
19 detering the offender and others from committing
20 offences, separating offenders from society
21 where necessary, assisting in the rehabilitation
22 of offenders, providing reparations for harm
23 done to victims, and to promote a sense of
24 responsibility in offenders.

25 I have reviewed the cases that have been
26 provided by the Crown, and there is a wide range
27 of sentences that are available for this offence.

1 The maximum penalty is five years where the Crown
2 proceeds by indictment. The minimum penalty
3 depends on whether the Crown has filed the Notice
4 of Intention to Seek Greater Punishment and the
5 number of prior convictions that the offender
6 might have.

7 Mr. Larocque has a lengthy history of
8 driving offences. He was initially sentenced
9 for impaired driving offences, but over the
10 years has accumulated multiple driving while
11 disqualified convictions, as well as some more
12 impaired driving offences.

13 His criminal record is the most aggravating
14 factor in this case. It reflects a flagrant
15 disregard for the driving prohibitions that
16 he has been placed on. Nothing has deterred
17 Mr. Larocque from driving when he feels the
18 need to.

19 Mr. Larocque did enter a guilty plea to
20 this offence, so that is deserving of some
21 credit. He entered it the week before the
22 trial, so it cannot be called an early guilty
23 plea, but it did save the Court time and prevent
24 witnesses from having to travel and testify, and
25 it also provided certainty of outcome. So it is
26 worthy of some credit.

27 Mr. Larocque has also said that he has been

1 attending AA while he is in remand, and that he
2 is beginning to recognize that he has a problem
3 that he needs to address, and if that is the case
4 that is to Mr. Larocque's credit. His failure to
5 comply with driving prohibitions and continuing
6 to drive while impaired are only going to land
7 him in jail for longer and longer sentences if
8 he continues on this path. As a 35-year-old
9 man with children and a long-term girlfriend,
10 I am sure that is not something that you want,
11 Mr. Larocque.

12 As it is today, before I impose sentence,
13 you are prohibited from driving until 2028, and
14 that is a reality that you need to face. You are
15 in this position because of your actions, and no
16 one else is responsible, and it is time that you
17 face that reality and start complying with the
18 driving prohibitions. The last three convictions
19 for driving while disqualified have earned you
20 a sentence of six months imprisonment, and that
21 has done nothing to deter you. You have received
22 driving prohibitions of ten years and nine years,
23 and that has not deterred you.

24 Given your blatant disregard for the driving
25 prohibitions that were put in place, prohibitions
26 that were put in place to protect the public,
27 your actions show contempt for those principles

1 and detract from the confidence that the public
2 should have in the judicial system. People want
3 to know that the justice system is dealing with
4 impaired drivers in a strict way and that the
5 punishments and prohibitions that are put in
6 place are being complied with and not flouted.
7 People should be able to feel that the streets
8 are safe to drive on, to walk on, that they can
9 do so without fearing that someone who should
10 not be driving is on the streets risking their
11 safety and that of their family members.

12 At the outset of sentencing my view was
13 that the Crown's position was very lenient.
14 My initial view was that nine months imprisonment
15 was too low and that a life-time driving
16 prohibition would be appropriate. Driving
17 is a privilege, not a right, and you have
18 done nothing at this point to earn that right.

19 But I have decided to exercise restraint.
20 I have taken into account what you have said
21 and what your lawyer has said on your behalf.
22 You could easily be looking at a sentence much
23 higher than what the Crown has suggested, and
24 if you are convicted of driving while prohibited
25 again you can expect to receive a much harsher
26 sentence. I have also taken into account the
27 driving prohibitions that you are currently

1 on, and that you are prohibited from driving
2 for another 11 years.

3 You have been in custody since November
4 13th, 2016, and there is also a period from
5 July 26th to 29th, 2016, where you were in
6 custody. So those equate to 177 days, and
7 at one-and-a-half-to-one credit equals 266
8 days of remand credit, and that equates to
9 almost nine months in custody, and I will
10 give you credit for those days. Please
11 stand, Mr. Larocque.

12 For the offence of driving while
13 disqualified I sentence you to a period
14 of nine months in custody. I take into
15 account your remand time of 177 days and
16 give you credit at one-and-a-half-to-one
17 for a total of 266 days credit for the
18 remand time. I will round that credit
19 up to nine months, meaning that you will
20 have served your sentence.

21 There will also be a driving prohibition,
22 and it will be consecutive to the driving
23 prohibitions that you are currently on,
24 and it will be for nine years. You may
25 sit down.

26 Counsel, if there is nothing else.

27 MR. DAVISON: Two other matters.

1 THE COURT: Okay.
2 MR. DAVISON: One I raise because if
3 I don't I think it will end up being called
4 back, and that is the victim surcharge.
5 THE COURT: Do you have any submissions
6 on that, Ms. Zimmer?
7 MS. ZIMMER: Your Honour, it would apply
8 in this case.
9 THE COURT: So there will be the victim
10 of crime surcharge, and it will be I believe
11 it is \$200; is that correct?
12 THE CLERK: Yes.
13 THE COURT: And the time to pay will
14 be in accordance with the statutory regulations
15 unless you have any other submissions on that,
16 Mr. Davison.
17 MR. DAVISON: No, that's fine, Your Honour.

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

Joel Bowker
Court Reporter