

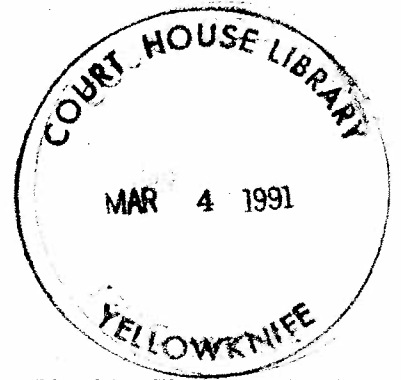
1 IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

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3 IN THE MATTER OF:

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5 HER MAJESTY THE QUEEN

6 AGAINST

7 LOUIE JEROME AND BRIAN JEROME



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Transcript of the Oral Reasons for Judgment delivered by
His Honour Judge B. A. Bruser, sitting at Inuvik in the
Northwest Territories, on Monday, February 19th, 1990

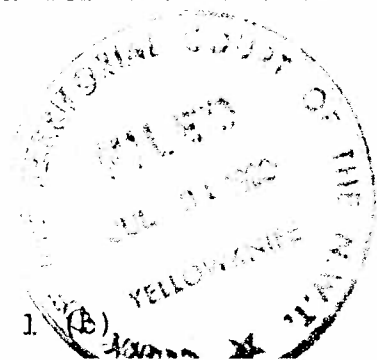
21 APPEARANCES

22 MR. GERALD MC CRACKEN:

Counsel for the Crown

23 MISS JOYCE LILLEGRAN:

Counsel for the Defence



1 THE COURT:

2 The accused are jointly charged in an Information
3 re-sworn on February 13th, 1990. On that date each elected
4 trial before this court, and each pleaded not guilty to the
5 two charges of break and enter, Count #3 being Stayed by
6 the Crown. The evidence concluded on February the 16th and
7 submissions from Counsel were heard on the same date.

8 The Crown's theory is that the two accused, Louie Jerome
9 and Brian Jerome, broke into The Mad Trapper bar in the early
10 morning hours after closing, on two dates, being February 1st
11 and February 2nd, 1990. The Crown says the evidence
12 implicating the accused is both direct and circumstantial.
13 The direct evidence being that of the eye witness, Danny
14 McLeod.

15 Miss Lillegran, on behalf of the two accused, argues
16 that Danny McLeod's testimony is too suspect to be relied
17 upon by the court. She further argues that the circumstan-
18 tial evidence is insufficient to support conviction.

19 I now turn to the assessing and weighing of the evidence
20 which I intend to go into in some depth. Certain facts appear
21 not to be in dispute and these include firstly, The Mad
22 Trapper business is located in Inuvik in The Northwest
23 Territories. Secondly, The Mad Trapper is a commercial
24 business which is lawfully entitled to sell liquor on its
25 premises to patrons. Thirdly, as I understand the
26 evidence The Mad Trapper does not sell beer or hard liquor
27 to customers to take off the premises. Fourthly, The Mad

1 Trapper was broken into after closing time on February 1st
2 and February 2nd, 1990. Fifth, neither accused, nor anyone
3 else for that matter, had lawful permission to enter the
4 premises after hours on either date, or on either date to
5 take anything from the Mad Trapper.

6 The Crown would have a strong case if I were to accept
7 the evidence of Danny McLeod. Mr. Mc Whinnie, who is not the
8 Crown Counsel before me today, argued that Mr. McLeod's
9 testimony should be accepted. According to Crown Counsel
10 there is corroboration to support what Danny McLeod
11 testified about. For example, the Crown points to footwear
12 impressions located inside the premises and behind the bar,
13 which were the same pattern type and same size footwear which
14 Corporal De Jong examined and which supposedly, came from the
15 accused, Brian Jerome.

16 I accept, without reservation, Corporal Dejong's
17 opinion of his footwear examinations and comparisons. It
18 is noteworthy though, that he could not conclude due to the
19 absence of incidental characteristics from the footwear, that
20 this particular footwear made the impressions. Therefore
21 he could not say that Brian Jerome's footwear, in his
22 opinion, made any of the impressions found at the scene of
23 the crime on February 1st. I also note that the footwear
24 examined by Corporal De Jong at the detachment was
25 identified to him as belonging to Brian Jerome.

26 I am not satisfied that the Crown has established other
27 than through hearsay, evidence that the footwear examined by

1 Corporal De Jong was the same footwear seized by another
2 officer. However this weakness in the Crown's case as I
3 perceive it is not critical to my ultimate findings.

4 The Crown also says that the findings of Louie Jerome's
5 fingerprints on bottles stolen from the Mad Trapper are
6 corroborative of Mr. McLeod's testimony. I accept the
7 opinion of Corporal De Jong that fingerprints belonging to
8 Louie Jerome were in fact found on liquor bottles stolen
9 from The Mad Trapper. I note, as well, that on Exhibit 3,
10 which is a bottle of Oozo, there are finger prints belong-
11 ing to Louie Jerome and one other person who is not before
12 the court at this time. I also observed that the finger-
13 prints of Louie Jerome were located on bottles seized from
14 the bedroom of someone named Leroy Jerome. There is no
15 other evidence linking Louie Jerome, the accused, to
16 occupancy of that room. On the other hand there is evidence
17 from Cindy Firth that Leroy Jerome lived at #4 Raven and
18 further that Louie Jerome, amongst others, was at the
19 party at #4 Raven during the night of January 31st and the
20 early morning hours of February 1st, 1990. People at the
21 party were drinking. As we all know drinking may involve
22 handling bottles without knowledge of where the bottles
23 came from. Knowledge is necessary to constitute
24 possession in law.

25 As I said earlier, Louie Jerome's fingerprints were
26 on the same bottle, Exhibit 3, as were the fingerprints on
27 another identifiable person. I find the fingerprint

1 evidence regarding Exhibit 3 to be consistent with the
2 person named Leroy Jerome, who resided at #4 Raven at some
3 time, having possession of the bottle.

4 The fingerprint of Louie Jerome on Exhibit 4, being
5 a Grand Marnier Liqueur bottle affords some evidence of
6 Louie Jerome touching that bottle. Exhibit 4 was seized
7 from the same room as Exhibit 3. But, again, touching alone
8 is not possession in law.

9 There were no fingerprints of the accused, Brian Jerome,
10 on any of the bottles which are before the court.

11 The Crown also asks me to take into consideration the
12 evidence of Tanya Amos. Miss Amos lives at #13
13 Tununuk Apartments with the accused Brian Jerome. On
14 February 2nd, shortly before Brian Jerome was arrested,
15 Miss Amos saw Mr. Jerome carrying a khaki pack sack that
16 was found in the storeroom located in their apartment.
17 About ten minutes later the police arrived. There were
18 liquor bottles inside the pack sack, some of which had
19 been stolen from the break-ins of February 1st and February
20 2nd at The Mad Trapper. I find this as a fact from the
21 evidence.

22 I accept the evidence of Susan Mc Ginnis regarding
23 her identification of the stolen liquor. However, Miss Amos
24 said that the pack sack had come into the apartment
25 several months earlier. She had no idea who put the bottles
26 into it. For that matter she does not know how the pack
27 sack came to be in the apartment. She did not see the

1 accused, Brian Jerome, put anything into that pack sac. Had
2 there been fingerprints identifiable to Brian Jerome I would
3 have no difficulty in proving possession of the bottle to
4 him within the pack sac, Exhibit 12.

5 The evidence of his carrying the pack sack without more,
6 is insufficient to conclude beyond a reasonable doubt that
7 he had knowledge of the contents inside the large pack sack.
8 Without proof of knowledge I am not prepared to conclude
9 beyond a reasonable doubt in the circumstances of this case,
10 that the accused, Brian Jerome, had possession of the contents
11 of the pack sack.

12 I have gone into considerable detail in examining what
13 the Crown says is corroboration of Danny McLeod's
14 evidence. I leave aside the finding of cigarette packages
15 of the same type stolen from the Mad Trapper because there
16 are so many cigarette packages floating around everywhere
17 that it means little to me.

18 When examined individually and collectively I find the
19 corroborative evidence, which is all circumstantial in
20 nature, to be insufficient by itself to convict either
21 accused. Furthermore it does little to bolster the
22 credibility of Danny McLeod's evidence. His evidence I
23 reject as to the events at the Mad Trapper. I find him to
24 have been one of the most unreliable witnesses I have ever
25 encountered.

26 Mr. McLeod's testimony, even considered along with the
27 corroborative evidence, is simply not worthy of belief. He

1 said that he had a poor recollection of events. He was
2 uncooperative on the witness stand and he was, in my view,
3 blatantly dishonest in his demeanor and in many of the
4 answers he gave regarding credible issues. In short I find
5 Mr. McLeod to have been a shifty witness whom I distrust.

6 Louie Jerome, Brian Jerome, would you both stand up,
7 please. For the reasons given I find the Prosecution has
8 not proven its case against either of you on either count
9 beyond a reasonable doubt, although I must say that the
10 circumstances are highly suspicious, but that is not good
11 enough to convict. You may be seated now. The two charges
12 are dismissed against both of you.

13 (CONCLUDED)

14 *Certified Correct*
15 *P. J. [Signature]*
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