

IN THE TERRITORIAL COURT
OF THE
NORTHWEST TERRITORIES

R E G I N A

vs.

STEVEN LAWRENCE ITSI

Transcript of Sentencing, before His Honour Judge
T.B. Davis, sitting at the Courthouse, Inuvik, in the
Northwest Territories, on Monday, December 11th A.D. 1989

D. A. McWhinnie, Esq.,

Appeared for the Crown

J. Lillegran, Ms.

Appeared for the Defence

W.M. Kiesewetter, CSR(A)

Official Court Reporter

(Charges under Section 4(1) of the Narcotic Control Act)

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DÉNONCIATION
(AU NOM DE SA MAJESTÉ LA REINE)

89-725

ADJUDICATION & DISPOSITION
JUGEMENT ET DÉCISIONS

CHARGE READ CHEF D'ACCUSATION

27 Sept 89
DATE JUDGE OR JUSTICE - JUGE OU JUGE DE PAIX

CROWN ELECTION CHOIX DE LA COURONNE

Summary Conviction Indictment
Condamnation sommaire Accusation

ACCUSED ELECTION CHOIX DE L'ACCUSÉ

Territorial Court Judge Judge & Jury Judge
Juge de la Cour territoriale Juge et jury Juge

27 Sept 89
DATE JUDGE OR JUSTICE - JUGE OU JUGE DE PAIX

PLEA DÉFENSE

Guilty Not Guilty
Coupable Non coupable

27 Sept 89
DATE JUDGE OR JUSTICE - JUGE OU JUGE DE PAIX

FAILURE TO APPEAR DÉFAUT DE COMPARAÎTRE

Bench Warrant Issued
Mandat émis

DATE JUDGE OR JUSTICE - JUGE OU JUGE DE PAIX

EVERY TIME THIS INFORMATION IS DEALT WITH
APPROPRIATE ENTRIES SHALL BE MADE ON THE REVERSE.
TOUTE MESURE PRISE AU SUJET DE CETTE DÉNONCIATION
DOIT ÊTRE INSCRITE DANS LA CASE APPROPRIÉE AU VERSO.

DISPOSITION DÉCISIONS

27.11
Convicted Fined Withdrawn
Coupable Amende Abandon

Fine Amende 300.00

Surcharge None

Default: Non comparison 1 month

Time to pay Délais de paiement 4 weeks

Suspended sentence: Sursis

Conditional discharge: Libération conditionnelle

Probation: Probation 1 Year - (60 hrs CSW)

Restitution: Restitution

Absolute discharge: Libération inconditionnelle

Imprisonment for: Durée de l'emprisonnement

Order: Driving Décision Conduite

Order: Firearms Décision Armes à feu

Ordered to stand trial: Obligation de subir un procès JUDGE OR JUSTICE - JUGE OU JUGE DE PAIX

Stay of proceedings: Suspension des poursuites DATE DEC 11 1989

STATISTICS RENSEIGNEMENTS PERSONNELS

Date of birth: Date de naissance 160271 Sex: M F

DRIVER'S LICENCE NO./PERMIS DE CONDUIRE N° MARITAL STATUS / ÉTAT CIVIL

single

Sworn before me Assermenté devant moi,

this 9 day of ce 9 jour de September

19 89 at Fort McPherson

in the Northwest Territories.
aux Territoires du Nord-Ouest.

APPEARANCE NOTICE

ORDRE DE COMPARAÎTRE

PROMISE TO APPEAR

PROMESSE DE COMPARAÎTRE

RECOGNIZANCE

ENGAGEMENT

Confirmed by: Confiriné par:

SIGNATURE OF INFORMANT - SIGNATURE DU DÉNONCIATEUR

JUDGE OR JUSTICE - JUGE OU JUGE DE PAIX

JUSTICE OF THE PEACE - JUGE DE PAIX DATE

COUNT NUMBER
N° DU TRIBUNAL

1972

JUSTICE OF PEACE
OF JUDGE'S NO.:
N° DU JUGE DE PAIX
OU DU JUGE:

19/9/B 225/9/B

This is the information of:
La présente constitue la dénonciation de

NAME NOM JAMES ROBERT ANDRUKUS

ADDRESS ADRESSE Fort McPherson, N.W.T.

OCCUPATION EMPLOI a Peace Officer and a member of the Royal Canadian Mounted Police

hereinafter called the informant. ci-après appelé le dénonciateur.

IF THE INFORMANT HAS PERSONAL KNOWLEDGE:
SI LE DÉNONCIATEUR A UNE CONNAISSANCE PERSONNELLE DE L'INFRACTION

The informant says that
Le dénonciateur déclare que

IF THE INFORMANT DOES NOT HAVE PERSONAL KNOWLEDGE:
SI LE DÉNONCIATEUR N'A PAS DE CONNAISSANCE PERSONNELLE DE L'INFRACTION

The informant has reasonable and probable grounds to believe
and does believe that
Le dénonciateur a des motifs raisonnables de croire que

STATE THE
OFFENCE
NOUVEAU
L'INFRACTION

Steven Lawrence ITSI

on or about the thirty-first day of August 1989
at or near Fort McPherson, Northwest Territories,
did unlawfully traffic in a narcotic, namely;
cannabis resin, contrary to section 4(1) of the
Narcotic Control Act.

- 1 MS. LILLEGRAN: Mr. Itsi is here for sentencing today.
- 2 THE COURT: Yes. Mr. McWhinnie, you are on this
- 3 matter?
- 4 MR. MCWHINNIE: Correct, Sir. If you will recall on
- 5 the 28th of November, there was a trial before you at Fort
- 6 McPherson, at the conclusion of which the Accused was found
- 7 guilty to the offense of trafficking in a narcotic. The
- 8 matter was adjourned to today's date for preparation of a
- 9 pre-sentence report, or actually an update on a pre-sentence
- 10 report. Is it before the Court?
- 11 THE COURT: Yes, I have the pre-sentence report,
- 12 but I had better have you give me a quick review, if you
- 13 remember, of the details of what was found, and what amount,
- 14 and how it came about, the trafficking; otherwise I will have
- 15 to read over my four pages of notes here.
- 16 MR. MCWHINNIE: The circumstances, Sir, as I recollect
- 17 the evidence was that when the primary Crown witness, Mr.
- 18 George Vittrekwa, was taken into custody at Fort McPherson,
- 19 on the offense date, he was found to have in his pocket, two
- 20 grams of hashish. He provided information to the Court as
- 21 to where he had obtained it, and subsequently Mr. Itsi was
- 22 charged, and proceeded to trial.
- 23 THE COURT: Yes.
- 24 MR. MCWHINNIE: Crown alleges a prior criminal record
- 25 for this individual.
- 26 MS. LILLEGRAN: That is admitted, Your Honour.
- 27 MR. MCWHINNIE: There is one additional conviction to

1 that. In September, I believe it was, of 1989. That would be
2 a subsequent matter, Sir, and I am not intending to rely on it
3 at this time.

4 THE COURT: Thank you.

5 MR. MCWHINNIE: Sir, the amount of narcotic involved
6 in this particular occasion is not terribly great, so the
7 Crown is not seeking a lengthy period of incarceration; however,
8 I think the case law here in the Territories, and indeed in
9 many of the jurisdictions in respect to the offense of
10 trafficking is quite clear - even on a first time offender
11 situation - where it is clear that the trafficking was a matter
12 of a monetary matter, and not simply a favour, the one person
13 giving or lending his narcotics to another, but a situation
14 where it's a commercial transaction, and the item is sold;
15 Courts have actively discouraged it, and generally have imposed
16 incarceration with very very few exceptions.

17 I must acknowledge, however, that this
18 young man, although he has a prior criminal record - most, if
19 not all of his prior involvement with the law, deals with
20 matters when he was a young person, he only having become an
21 adult on the 16th of February, 1989. So this would likely be
22 the first adult disposition made with respect to him, and I
23 think the Court of Appeal has made it clear on many occasions,
24 that even in cases where gaol is called for, the length of that
25 term must be tempered by the fact that this is a young person -
26 a relatively young person - and as a first, to gaol as it were.
27 as an adult, the short sharp shock theory is often applied.

1 Given the range for a first time offender, in a relatively
2 small amount of narcotic, is usually expressed in months, and
3 not that many; it would be my suggestion that perhaps a period
4 somewhere between thirty days and three months would be a
5 range in which this Accused could be comfortably placed in
6 the circumstances. Those would be my submissions.

7 THE COURT: Thank you.

8 MS. LILLEGRAN: Sir, I would agree with my friend that
9 Mr. Itsi is before the Court as a first time adult offender,
10 and that the principles of sentencing are correct to the point
11 where the Court of Appeal has certainly indicated that a young
12 person before the Court, facing a gaol sentencing should not
13 be facing a lengthy one.

14 In the particular facts of this case
15 the quantity of the drug was very small; and as I can recall
16 the evidence, I think it was the sum of \$15.00 was paid.

17 THE COURT: I think it was about thirty.

18 MS. LILLEGRAN: Was it thirty? I'm sorry, I thought it
19 was fifteen; but in any event the sum gained by Mr. Itsi,
20 certainly doesn't place him in the commercial, I would submit,
21 trafficking category as we think of it, which is something
22 that is carried on over a period of time for considerable gain.
23 Here we have what would appear to be an isolated incident, and
24 in a way, probably more towards the favour end from one point
25 of view. Mr. Vittrekwa's evidence, as I recall, was that he
26 had been drinking for several days in a row, and he had
27 approached Mr. Itsi himself - it wasn't that he was being

1 solicited for it. It was something that he felt that Mr. Itsi
2 could provide; and there is no question here of corrupting
3 young people or whatever. If I can recall, Mr. Vittrekwa was
4 in his mid to late twenties, or what have you, and it is
5 certainly an isolated transaction,

6 Just to update the pre-sentence report,
7 the reference there to Mr. Itsi going trapping with his Uncle
8 James, and that having not taken place due to a misunderstand-
9 ing. What had happened in effect was that at that time when
10 he was supposed to go out, Mr, Itsi had been enrolled in a job
11 entering course, which as Your Honour can see was never
12 completed. Mr. Itsi had come to Inuvik to stay with his
13 parents briefly; but I understand that his plans are that
14 tomorrow his father intends to drive him back to Fort McPherson,
15 whereupon his Uncle James and a cousin will pick him up, and
16 they will be going out to their winter camp, which is about
17 50 miles outside of Eagle Plains, which is a fair distance
18 from Fort McPherson,

19 Mr. Itsi had worked last as well it
20 would be this year, I think, for Sonix (phonetic) in March,
21 doing some seismic work; and in a 21 day period he earned
22 some \$2,000 from that, being paid at the rate of \$6.50 per
23 hour, and that's the kind of employment where he goes out
24 to the camp and stays there, and then comes back in - or can
25 do that. He is expecting to be called back again, but if not
26 he intends to stay out at the winter camp for the winter
27 trapping season, and would also have some income from fur

1 as well if the Sonix job does not go through, although he
2 expects that it will. He seems to be a young lad who gets
3 along with other people, but is a very quiet and shy person;
4 the kind of person that never having been in an adult goal
5 would certainly experience it in a way that probably others,
6 maybe even of his own age, would not, in terms of its effect
7 upon him.

8 There is an indication in the report
9 that for the last couple of years he hasn't had very much
10 family support, but that there seems to be somewhat of a shift
11 in that his parents are allowing him to take care of their
12 house in McPherson, It appears that he has difficulty dealing
13 in a group or a counselling situation, and he is not comfortable
14 because of his withdrawn and shy nature. He does drink, but
15 there is no indication that liquor was involved in this
16 particular offense. There appears not to be.

17 THE COURT:

18 What causes this young man not to be
19 able to follow through? He does fairly well for four weeks
20 in the Life Skill program; and then in the two weeks that
21 might give him a chance to get better employment in a job
22 entering program - a training ground that prepares people -
23 he gets expelled, because he has a poor attendance and a poor
24 attitude.

24 MS. LILLEGRAN:

25 Apparently Mr. Itsi has informed me
26 that the individual that was doing that part of the program,
27 and he, had some kind of a personality clash, and he just seems
to withdraw when that sort of thing happens.

1 THE COURT: Well if everybody else in the program
2 stays with it, then maybe he has to change his attitude and
3 adjust. As grownups we run into all kinds of people that
4 we don't necessarily get along with, but you have to adjust
5 yourself in life to be able to get by. It's a shame that he
6 isn't putting himself in a better position to get employment,
7 by at least completing that job entering program.

8 MS. LILLEGRAN: I don't have the initial or the original
9 of the report in front of me; but this report alludes to that,
10 that there have been a number of difficult times in his up-
11 bringing, and the fact that he has almost been left on his own
12 for the last couple of years, due to --

13 THE COURT: It says that he is still a troubled
14 young person, and that there are other programs that he needs.
15 Now I don't know what those other programs are, but maybe
16 reporting to a Probation Officer might be necessary, in order
17 to line him up for such programs as the Probation Officer
18 feels appropriate.

19 MS. LILLEGRAN: There seems to be some slight improve-
20 ment in his attitude in that the parents are now giving him
21 some responsibility in looking after the house; but it is
22 clear from the writer's comments that he still has a long way
23 to go and he would benefit from supervised probation, and
24 seemed to get that. It is something that will get Mr. Itsi's
25 attention to the point where he realises that he needs to
26 get serious about himself.

27 There is a general range in sentencing,

1 for offenses, and Your Honour, I think that a sentencing
2 earlier today of a person previously with no record, simple
3 possession, and the quantity was more than we have here. Here
4 we have, as Your Honour found, a completed offense of traffick-
5 ing, but what amounts to a very minor quantity, and almost sort
6 of an offhand being solicited by the purchaser, if you will,
7 who, according to his evidence, I think went to go and look
8 for - I found it very difficult to hear, but --

9 THE COURT: I didn't get the impression that he
10 was indicating that he really was looking for it. They met,
11 but I couldn't tell from the evidence, or my notes, that one
12 was approaching the other. I can't tell.

13 MS. LILLEGRAN: From my understanding, and I would
14 have to look at my notes, but it seems to be that Mr.
15 Vittrekwa runs into Mr. Itsi at the Bay, or knows he is going
16 to be there or whatever, and arranges the transaction. It is
17 not a situation where Mr. Itsi is a sophisticated trafficker
18 of any kind; and in the circumstances of this case, although
19 we have a complete trafficking offense, given Mr. Itsi's age,
20 the fairly minor quantity of the drug; given the comments in
21 the pre-sentence report, I don't know, Your Honour, if a gaol
22 sentence really is required. There have been instances where
23 people have not received gaol sentences for possessing, simple
24 possession of far larger quantities; but I don't see this as
25 anything like a sophisticated trafficking at all, and there is
26 certainly no indication - there is nothing on Mr. Itsi's
27 record that such is the case, and I'm asking Your Honour to

1 consider the imposition of perhaps a fine, for which he will
2 have to work, and that will make him get serious, and then he
3 will start taking either the trapping or the Sonix work
4 seriously, or the job entering program seriously; and it also
5 appears that he would benefit from a fairly lengthy period
6 of supervised probation, from what I'm inferring from this
7 report.

8 Those are my submissions.

9 THE COURT: Thank you. Steven Lawrence Itsi is
10 now 19 years of age, and was found guilty of selling \$30.00
11 worth of soft drugs, hashish, to another person on the 31st
12 of August, 1989.

13 Itsi has been pretty well on his own
14 for the past two years, in that he has not had substantial
15 family support, and has been in custody as a minor on a number
16 of occasions in the past for consuming alcohol as a minor,
17 breaching probation orders, and mischief charges. He did
18 community service work before that in 1987, and had been on
19 probation, and was in a custody receiving home as a young
20 person at various time. He therefore is convicted of his
21 first offense as an adult on this charge. He has worked as
22 a fire fighter in the past, and has had some experience in
23 trapping. He has also in 1989 taken a Life Skill program,
24 but didn't have quite enough sense to control his own attitude
25 and didn't finish off on a two week additional job entering
26 program, because there was a personality conflict between him
27 and a teacher. It is unfortunate, because the only person to

1 lose out on it is the student, not the teacher.

2 He has been a quiet and withdrawn
3 young person, but gets along well with people. He talks to
4 some close persons when he isn't feeling too happy. or is
5 somewhat depressed; and when he is under the influence of
6 alcohol, he doesn't have much control of himself. He is
7 abusive and a nuisance.

8 The Social Service officer seems to
9 have analysed his situation and says that he needs further
10 help, and should be encouraged to seek some help through
11 programs. She is hoping that he is growing up to the point
12 now where he will start to realise that he has to take
13 responsibility for everything on his own, even though he
14 hasn't had much support in the past,

15 It is perfectly proper for Crown counsel
16 to suggest a short period of time in gaol for the Accused,
17 because the Courts generally do not want to in any way have
18 persons who traffic in drugs not be penalized; but because
19 of the age of the Accused, and his background, I am more
20 concerned at this time about his own rehabilitation, and feel
21 that possibly a fairly substantial fine, which will require
22 him to become involved with employment, and a period of
23 probation on which he would be required to do community
24 service work, and report and take counselling; might be of
25 benefit to him and ultimately more value to the community.
26 It would be nice if I could also impose on his record one day
27 in gaol, so that he knows he has been warned that if he comes



1 back to the Court for any charges, he is likely to be in gaol.
2 Instead of that I am going to impose a fine in the amount of
3 \$300.00, or in default thereof one month in gaol. In addition
4 to that he will be on probation for a period of one year, and
5 shall report to a Probation Officer as and when directed. He
6 shall perform sixty hours of community service work when and
7 as directed. That makes the assessment, if you were given
8 credit for \$5.00 an hour as is available in the Fine Options
9 program, something in the vicinity of \$600.00 in value here
10 that this is costing you today, Mr. Itsi. So I want you to
11 make sure that you think this over and don't get involved
12 with anything in the future,

13 I am also going to require that you
14 shall participate in any counselling or treatment programs
15 recommended by the Probation Officer,

16 Now do you understand what I have
17 said today?

18 MR. ITSI: M'hmm,

19 THE COURT: You will have to sign the probation
20 order, and I think you'd better have it so that you will return
21 as well to the Court which is going to be over in the City
22 Council Chamber on Thursday afternoon - sometime between
23 2,30 and 5,00 to sign the probation order. Would that be
24 more suitable, Madam Clerk?

25 MS. LILLEGREN: Your Honour, I understand Mr. Itsi will
26 be leaving Inuvik tomorrow with his father, to return to Fort
27 McPherson, so he won't be here on Thursday. Perhaps he

1 might just stay.

2 THE COURT: All right, that's fine, the Clerk has
3 said that she will be able to prepare it today. Now this
4 offense occurred on the 31st of August, but under the circum-
5 stances I think that he doesn't have employment at the
6 present time a surcharge would be a hardship, so there is no
7 surcharge.

8 MS. LILLEGREN: Sir, was there time to pay the fine?

9 THE COURT: I don't think we worked that out. When
10 can you pay the \$300,00?

11 MS. LILLEGREN: Perhaps three months, Your Honour, and
12 if he has any difficulty there, if he is also doing community
13 service work he could maybe make arrangements to use the Fine
14 Options program.

15 THE COURT: Yes, we will allow him three months
16 in which to pay. Maybe we had better put it at four months,
17 and he can possibly get involved with both, and it will be
18 easier to put it at four and have an extra month.

19 MS. LILLEGREN: Thank you, Your Honour,

20 -----
21 PROCEEDINGS CONCLUDED
22 -----

1 Certificate of Transcript:

2 I, W.M. Kiesewetter, CSR(A) Official Court Reporter,
3 hereby certify that I attended at the above proceedings
4 and took faithful and accurate shorthand notes, and the
5 foregoing is a true and accurate transcript of my shorthand
6 notes to the best of my skill and ability.

7 Dated at the City of Edmonton, in the Province of
8 Alberta, on this 2nd day of January, A.D. 1990.

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10
11 W.M. Kiesewetter

12 W.M. Kiesewetter, CSR(A)
13 Official Court Reporter.
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