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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

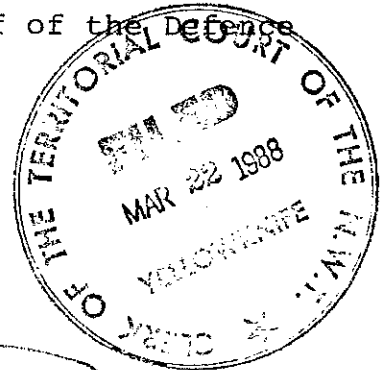
- and -

TERRENCE PATRICK NUGENT

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Transcript of the Oral Sentencing of His Honour Chief  
Judge J. R. Slaven, sitting at Inuvik, in the  
Northwest Territories, on Thursday, October 29th,  
A.D., 1987.  
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APPEARANCES:

MS. N. BOILLAT:                   On behalf of the Crown  
MS. J. LILLEGRAN:               On behalf of the Defence



Charges under Sections 238(5) and 3(1) CRIMINAL CODE

3(1) Narcotic Control Act

1 THE COURT: Mr. Nugent comes before the Court, being a man of  
2 28 years old, and there is only one blemish on his record,  
3 which was many years ago and many miles away, when he was  
4 convicted of an offence completely unrelated to what is in  
5 Court today, for which he was ordered to pay a fine of  
6 \$150.00 and placed on probation. That was in 1979 in British  
7 Columbia, so I feel I can virtually ignore that and view this  
8 man as a first offender.

9 He decided to have a few drinks on the 9th of July of this  
10 year. He was living in his automobile, at the time, so he  
11 took his automobile with him to the Eskimo Inn and drank at  
12 the Sly Fox. He realized that he shouldn't drive his vehicle  
13 and arranged for someone else to drive him home. He went to  
14 sleep in the car, unfortunately, and that person did not  
15 drive him home but left him there sleeping.

16 The police arrived and found him there, and they demanded  
17 that he give a breath test. Mr. Nugent, as is understandable  
18 for a person who makes his living from driving and is now  
19 driving as a taxi driver in Inuvik, understandably has some  
20 knowledge of the law. He knew well enough when he got in the  
21 car, having been drinking, that he should not have the keys  
22 in the ignition and not have the keys on his person, and he  
23 did that by throwing the keys in the back seat.

24 I am satisfied completely that he had no intention  
25 whatsoever to drive or to take care and control of that  
26 vehicle, thereby breaking the law. Unfortunately, with a  
27 combination of circumstances, the police had seen him there,

1 and from information they'd been given over the phone, the  
2 police had reasonable grounds upon which to demand that he  
3 blow in the breathalyzer. Mr. Nugent quite understandably  
4 felt that he did not have to blow in the breathalyzer, because  
5 he had not been driving, had no intention to drive, he did not  
6 have the keys about him, so that he was not in a position to  
7 even start the car, let alone drive it. Unfortunately, his  
8 knowledge of the law there was insufficient. If he had blown,  
9 he would still likely have not been convicted of anything,  
10 because, as I say, I am satisfied he had no intention of  
11 driving the vehicle. But unfortunately for him, he in a way  
12 falls between a crack in the laws, and although he had no  
13 intention of driving, he nonetheless was guilty of refusing  
14 to blow after a demand made by a peace officer, who had  
15 reasonable and probable grounds to make that demand.

16 There are certain minimum penalties laid down in the  
17 CRIMINAL CODE; that is, a \$300.00 fine, a three months  
18 prohibition from driving. They are stiff enough, but even  
19 more important, I am sure, to Mr. Nugent is that because of  
20 the Town of Inuvik bylaws, he will not be allowed to have a  
21 taxi driver's licence for a period of, I believe, two years,  
22 because he has been convicted under the CRIMINAL CODE. And I  
23 have made these lengthy remarks in case he wishes to apply  
24 to the Town to keep his taxi licence for use after he gets  
25 his driver's licence back, in case there is any leeway in  
26 their bylaws that would permit them to give him favourable  
27 consideration. Accordingly, for all of those reasons, I am

1 going to impose the minimum penalties that I am able to.

2 Stand up, please, Mr. Nugent.

3 As is required by law, I convict you of refusing to blow.  
4 I direct you pay a fine of \$300.00; in default of payment,  
5 ten days imprisonment. I will give you four months time  
6 within which to pay that fine. And I prohibit you from driving  
7 for the minimum period of three months.

8 I don't know what the Town's bylaws provide regarding  
9 convictions under the Narcotic Control Act. In any event,  
10 you have never had any narcotics charges before, and in view  
11 of the small quantity found and the circumstances in which  
12 you find yourself, I do not convict you on the Narcotic  
13 Control Act and I discharge you absolutely on that charge.

14 (AT WHICH TIME THESE PROCEEDINGS WERE CONCLUDED)

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16 - Certified a correct transcript,

17 Debora Chipperfield  
18 Debora Chipperfield  
19 Court Reporter  
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