

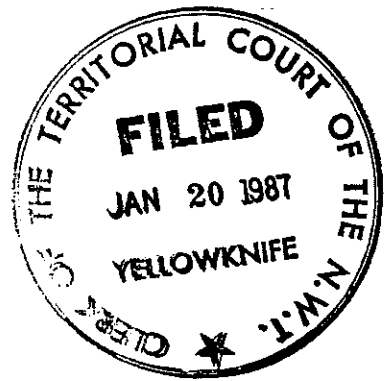
IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

B E T W E E N :

HER MAJESTY THE QUEEN

and

RODOLPHE GODIN



Heard at Yellowknife, N.W.T.

Reasons Filed: January 20, 1987

REASONS FOR JUDGMENT

of

His Honour Judge R. Michel Bourassa

Counsel for the Crown: Ms. N. Boillat

Counsel for the Defence: Ms. L. Tarras

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Well, this matter presents some difficulties in terms of sentencing. The chronology as I understand it, is that in August of 1985, as the result of a conviction under Section 235, the accused was prohibited from driving for two years. In December of 1985, four months later, he was convicted twice of driving while disqualified, pursuant to prosecution under the Vehicle's Act.

On the 8th of May, 1986, he was seen driving by the police and was pulled over and at that time charged for an offence under Section 242 for which I found him guilty. He was released and then three weeks later the police find him behind the wheel of his car, drunk. They caution him not to drive and suggest to him that he not drive and yet

within an hour he's down the road again driving. He's arrested again and this time he's convicted of having over 80 milligrams of alcohol in his blood as well as driving while disqualified.

Obviously the police were trying to help. I don't think Mr. Godin can hold out that the police were trying to persecute him. The police, it seemed to me, exercised a lot of discretion and in fact were trying to give Mr. Godin a break and he didn't, literally and figuratively, respond. He snubbed his nose at them and drove.

The driving prohibition provisions probably bear the potential of being the most effective way of protecting the public from drunk drivers. I think it's recognized that the Courts can do very little with those alcoholics or those who are so in love with the bottle that they persist in drinking no matter what the consequences. We can't cure someone of alcoholism but we can take them off the road, but if we can't even take them off the road to protect the public, then really the Courts are totally hamstrung, and the reference to the goal of protection of society and public becomes just a whisp of fog on a rainy day.

The fines, jail sentences and prohibitions that have been imposed have had no effect on Mr. Godin at all. I have

been told that since May he hasn't been driving, but it's a little late for that realization to come to him. This Court has to impose a deterrent sentence -- the danger to the public is clear. There can be no question about it. Even in the small communities, never mind Yellowknife, people are run over by drunks, killed, or hurt. The litany of death and injury goes on and on.

This Court can't do anything about Mr. Godin's drinking habits. In my view, the goal of sentencing here is to deter Mr. Godin. I'm not optimistic about curbing his drinking habits but I certainly want to make it very clear to Mr. Godin that when the Court and the law says "no driving", it means just that, and Mr. Godin and others like him are going to have to come to the very quick realization that the Courts, reflecting the interests of the community and society, will not tolerate abuse of or contraventions of Court orders when it comes to driving.

This is the third conviction now for drinking and driving offences for Mr. Godin, and recent convictions; two in 1985 and one now in 1986. I think there has to be a significant sentence imposed. If I had any faith that Mr. Godin would stay off the road, perhaps that would mitigate against a severe sentence, but I have no more reason to have that hope.

I don't think Mr. Godin is a master criminal by any length, it's just unfortunate what alcohol will do to an individual. I point out to Mr. Godin that what is happening to him today is what he's doing to himself every time he picks up the bottle.

The question of his ultimate rehabilitation or reformation, if that's possible, I leave to the Department of Corrections.

Taking into account his plea of guilty with respect to the driving with over 80 milligrams of alcohol as well as the admission of fact and the very fair way that the Defence was conducted; as well as what's been said on his behalf, stand up, please, Mr. Godin:

With respect to the charge under Section 237(b) of the Code, there will be a term of four months in jail consecutive, together with a license prohibition pursuant to the Criminal Code of three years. I point out to you, Mr. Godin, that this license prohibition operates Canada wide.

With respect to the driving while disqualified, Section 242(4) of the 8th of May, there will be a term of imprisonment of one month consecutive.

With respect to the driving prohibition offence, 242(4) on the 31st day of May, I take in aggravation the fact that the police virtually offered a helping hand and that was rejected. I think it's very important that the police exercise discretion in charging, and operate as a front line in the prevention of crime and screening of offenders. It may very well be that their discretion to charge or not charge is an important part of that function and it's important in the whole criminal process. To flaunt that or reject that kind of discretion and assistance, I take it as an aggravating factor.

There will be a term of imprisonment with respect to that offence of two months consecutive. I'm taking into account totality on all of the matters.

A handwritten signature in black ink, appearing to be 'R. Michel Bourassa', with a long horizontal line extending to the right.

R. Michel Bourassa
Judge