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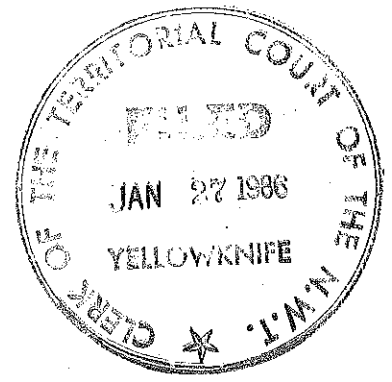
IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

FRANK FULOP



Transcript of the Oral Reasons for Sentence delivered
by His Honour Judge R. M. Bourassa, sitting at Inuvik,
in the Northwest Territories, on Tuesday, October 8,
A.D. 1985.

APPEARANCES:

MR. J. R. SHIPLEY On behalf of the Crown
MR. J. U. BAYLY On behalf of the Defence

1 THE COURT: With what has been given to me on this sentencing
2 hearing, Mr. Fulop is going to have to realize that when he
3 is ordered to provide a sample of his breath in proper cir-
4 cumstances, he has to provide a sample of his breath. The
5 penalties for refusing to provide a sample of breath are the
6 same as the penalty for having care and control while im-
7 paired, and the same as the penalties for driving while im-
8 paired, and the same as penalties for driving with over
9 80 milligrams of alcohol. I dare say from what your lawyer
10 has said, Mr. Fulop, if you had provided a sample of your
11 breath, your reading may very well have been below the legal
12 limit. While you may still have been charged with being im-
13 paired, I would think your defence counsel would have had a
14 lot easier time in fighting the case, based on involuntary
15 intoxication, than the case that the facts presented to him.

16 This is the second time Mr. Fulop has refused to
17 provide a sample of his breath; and as I said, Mr. Fulop is
18 going to have to understand that if the demand is legally
19 made, he has to provide that sample. He is no different than
20 anyone else. I also want to point out to you, Mr. Fulop,
21 that there is going to be a change in the Vehicles Ordinance
22 shortly, and for convictions of drinking and driving offences
23 you are going to lose your licence automatically. You might
24 want to consider that before you have a couple or three
25 drinks, regardless of the circumstances.

26 The previous conviction is in 1978. On the bare
27 facts, I suppose a jail sentence could be contemplated, but

1 after hearing Mr. Bayly, I don't think a jail sentence should
2 be called for. I have also contemplated an order pursuant
3 to Section 54 of the Vehicles Ordinance, either prohibiting
4 or restricting the accused from driving. However, he is con-
5 victed under Section 235, and the Vehicles Ordinance provides
6 for the jurisdiction of this Court to prohibit the man from
7 driving where the offence arises out of the operation of a
8 motor vehicle; and absent argument on whether or not a 235
9 offence arises out of the operation of a motor vehicle, and
10 given the particular circumstances, I don't propose to make
11 that kind of an order. But I want Mr. Fulop to clearly
12 understand that he has responsibilities with that driver's
13 licence. It may very well be a way of earning his living,
14 but if he is not going to take the necessary precautions, he
15 can't expect anyone else to save him.


16 Taking into account then everything that has been
17 said on your behalf, as well as the facts as related by the
18 Crown attorney--stand up, please, Mr. Fulop--I'm going to
19 impose a fine of \$800.00, in default seventy days in jail.
20 Do you require time to pay the fine?

21 THE ACCUSED: Two months.

22 THE COURT: Two months to pay the fine.

23 (AT WHICH TIME THIS MATTER WAS CONCLUDED.)
24 -----

25 Certified a correct transcript

26 
27 Edna Thiessen, Court Reporter