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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

HER MAJESTY THE QUEEN

vs

BRIAN ROY GULLY

---Before HIS HONOUR CHIEF JUDGE J.R. SLAVEN at Inuvik,
Northwest Territories, on January 26th, 1987



APPEARANCES:

BRIAN BRUSER Counsel for the Crown.

JOYCE LILLEGAN Counsel for the Accused.

His Honour's remarks on sentence



1-4 24 245.7

ADJUDICATION & DISPOSITION

CHARGE READ: DATE Nov 18/86 JUDGE OR JUSTICE Dana W. Hanson

COURT NUMBER 123693

CROWN ELECTION: Summary Conviction: Indictment:

J.P. or Judge's Number 80-519 1348615

ACCUSED ELECTION: Magistrate: Judge & Jury: Judge:

THIS IS THE INFORMATION OF MICHAEL BEAUDOIN (Insert full name, residence and occupation of informant) a member of the Royal Canadian Mounted Police

DATE JUDGE OR JUSTICE

of Inuvik, Northwest Territories

PLEA: Guilty: Not Guilty: JUDGE DAVID C. JUDGE DATE Nov 18/86 JUDGE OR JUSTICE Dana W. Hanson

a peace officer HEREINAFTER CALLED THE INFORMANT

FAILURE TO APPEAR: Bench Warrant Issued: DATE 21 Jan 87 JUDGE OR JUSTICE D. K. L...

THE INFORMANT SAYS THAT he has reasonable and probable grounds to believe and does believe that Brian Roy GULLY

EVERY TIME THIS INFORMATION IS DEALT WITH APPROPRIATE ENTRIES SHALL BE MADE ON THE REVERSE

on or about the 24th day of October, 1986, at or near Inuvik, in the Northwest Territories, having consumed alcohol in such a quantity that the percentage thereof in his blood exceeded eighty milligrams of alcohol in one hundred millilitres of blood, did drive a motor vehicle contrary to Section 237(b) of the Criminal Code.

DISPOSITION: Convicted: Dismissed: Withdrawn: FINE: J.P. COSTS: POLICE COSTS: RESTITUTION: TOTAL: DEFAULT: TIME TO PAY: SUSPENDED SENTENCE: CONDITIONAL DISCH: ABSOLUTE DISCH: Drug Prob. PROBATION FOR: 2 years IMPRISONMENT FOR: 5 months DATE JAN 26 1987 JUDGE OR JUSTICE J.P. Stawen C. Judge

CARD OF OS J.T.P. D.B.S. J.P. M.V.B.

STATISTICS DATE OF BIRTH: 16 Dec 62 M F DRIVER'S LICENCE: MARITAL STATUS: U.K.

Sworn before me this 27th day of October A.D. 19 86 at Inuvik, Northwest Territories Dana W. Hanson A Judge or Justice of the Peace in and for the Northwest Territories

Signature of Informant Michael Beaudoin

Appearance Notice Promise to Appear Recognizance

Oct 27, 19 86 confirmed Dana W. Hanson Justice of the Peace

1 I have here a young man of 23 years of age. In June of
2 1979 he was convicted of blowing over .08, and was fined
3 \$350.00. Two years later to the day, June 9th, 1981, he
4 was convicted of the same offence, along with a couple of
5 others, and was sentenced to 2 weeks, being the minimum for
6 a second offence, for blowing over .08.

7 On November 16th, 1982, along with other offences, he was
8 convicted of impaired driving twice. On one of them he rec-
9 eived 3 months and on one, 6 months consecutive.

10 He was back before the court on May 5th, 1984, for blowing
11 over .08, and he was given the minimum, 90 days intermittent.
12 He was given a break in May of 1984, and he was right back in
13 court again in November of 1984. So he was given a break
14 in May of that year, and just abused it completely, and rec-
15 eived a sentence of 5 months. As well as this horrendous
16 record, in this case he was driving at 4.00 o'clock in the
17 afternoon on the most heavily-travelled portion of any high-
18 way in the Mackenzie Delta area, so much so that he almost
19 forced an oncoming vehicle off the road. He blew around .28
20 in both blows, being one of the highest readings.

21 The only thing said in his favour is that he is working
22 and his father needs him at work, and also that he stayed out
23 of trouble for almost 2 years after the November, 1984, con-
24 viction. After he was given a break in May of 1984, it would
25 appear that he went right back out and offended again.
26 So apparently the sentence given in November, 1984, made no
27 impression upon him, and for the protection of the public, it

1 is essential that he be given a lengthy jail term and prohib-
2 ited from driving for a lengthy period. If we were under the
3 Criminal Code as it was prior to December of 1985, or if the
4 Crown had proceeded by indictment for this particular offence,
5 I would be sentencing him to a jail term of somewhere between
6 9 and 12 months. With his record and the circumstances of
7 this offence, the case law cries out for a sentence like
8 that.

9 The police and the prosecution, in their wisdom, and I
10 do not criticize or fault their judgment whatsoever, have proceeded
11 summarily and, accordingly, the most lengthy jail sentence
12 I can impose is 6 months. The case law says that I can
13 only impose the maximum in the worst possible circumstances.
14 The worst possible circumstances, I suppose would involve
15 death or injury to others and, of course, in that event he
16 would have been charged or could have been charged under a
17 different section which would carry a heavier penalty than
18 the section I am operating under. I suppose there could have
19 been greater danger to other people than there was here, and
20 I suppose these are not quite the worst possible circumstances
21 I could have before me.

22 I do not understand you, Mr. Gully. You have had other
23 convictions for failure to attend court and getting tangled
24 up with police officers, but they are all tied in with drinking-
25 driving offences, it appears to me. In other words, if it
26 were not for your drinking-driving, you would never have been
27 in court rather than being here and being sentenced

1 for the 8th time involving over a dozen offences in the last
2 8 years. One would think you would have learned your lesson
3 before this. It is against the law to drink and drive, and
4 the people of Canada have cried out for many years for heavier
5 penalties for drinking-driving offences and, as a result of
6 that, heavier penalties were enacted by Parliament in 1985,
7 and the imposition of heavier penalties certainly reflects the
8 desire of almost all right-thinking people in our nation.

9 Will you stand up, please. (accused stands) I convict
10 you as charged and direct that you be imprisoned for a period
11 of 5 months. I also direct that you be prohibited from
12 driving for a period of 2 years.

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21 Certified correct
22 *G. Mitchell*
23 (G. Mitchell, CSR RPR - Court Reporter
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