

IN THE YOUTH COURT
OF THE
NORTHWEST TERRITORIES

REGINA

V.

L.K.B.

REASONS FOR JUDGMENT

PRESIDED OVER BY
HIS HONOUR JUDGE J.R. SLAVEN

R.J. Peach, Esq.,

Appeared for the Crown.

J.I. Lilligran, Ms.,

Appeared for the Defence.

Janet Harder,

Court Reporter.

FORT MCPHERSON
NORTHWEST TERRITORIES
AUGUST 13, A.D. 1987

Charge Under Section 233 (4)

1 THE COURT: Well, I'd like the people here to
2 have a good idea of what happened that day. I'm sure there
3 would be a lot of rumors and talk around about what
4 happened or didn't happen. I think you are very aware that
5 there's going to be an inquest in another matter here in
6 Fort McPherson, which -- it was decided to hold
7 because of pressure from the people in the community
8 here. This is a little different matter in this case.
9 Generally speaking, when a person dies suddenly -- if I may
10 -- or accidentally or because of some criminal offense, if
11 there is a criminal offense charge laid there is no
12 inquest held because, I take it, it is felt that the facts
13 of what happened will come out at a trial or preliminary
14 inquiry. For example, if it is a charge of murder or
15 manslaughter, there has to be a preliminary inquiry and
16 everybody involved has to give evidence in open Court. So,
17 when that is going to happen, when a charge is laid, they
18 don't bother calling an inquest; they feel that everything
19 will be brought out anyway. If no charges are being laid,
20 then an inquest is held before a jury -- is it still a six-
21 person jury?

22 THE CROWN: I believe so, Your Honour.

23 THE COURT: It used to be -- it would be a
24 jury of Fort McPherson people and it would be held in the
25 open and witnesses would give their evidence as to what
26 happened. The jury and coroner could make recommendations
27 to prevent deaths like this in the future. This case is a

1 little different in that Mr. B. has accepted full
2 responsibility for his actions and pled guilty here in Youth
3 Court, and even then, the proceedings in Youth Court can not
4 be widely published. I feel a bit restricted and neither do
5 I feel competent to make recommendations such as a jury of
6 local people could make. I have never driven a snowmobile;
7 I have never driven a three-wheeler, or a four-wheeler. The
8 people who use them every day, if they sat on a jury, could
9 make recommendations regarding them. I believe there is a
10 bylaw here that there can only be one passenger on the ski-
11 doo.

12 CONSTABLE HANNA: Just the amount of passengers that
13 the machine is designed for.

14 THE COURT: Are any designed for three
15 passengers, like the one involved here, for example?

16 CONSTABLE HANNA: The one involved here, I think,
17 was a single-person.

18 THE COURT: Not even one passenger?

19 CONSTABLE HANNA: No.

20 THE COURT: And I know that because I have had
21 charges before me here in Court brought by the bylaw officer
22 of too many passengers on a ski-doo, and there has been
23 quite a few of those. This is an illustration that the laws
24 regarding how many passengers can be on the ski-doo are good
25 ones because, in this case, the death wasn't caused by
26 having been hit by the truck; it was because they all came
27 off the ski-doo and when he hit the frozen ground, that



1 caused his death. I feel a bit inadequate; possibly in this
2 case, an inquest would have served the purpose, but that's
3 not within my jurisdiction to order one or really even to
4 recommend one. I've had the benefit of a predisposition
5 report prepared by B. Blake, the probation officer in the
6 Youth Court, having been read out in Court. Two others --
7 there were three on the ski-doo with L., one, of course, was
8 Henry Ben Francis. The other two boys, they were the ones
9 that got L.B. to drive into town. They had a few drinks; I
10 don't think Henry Ben Francis had, but the other two boys
11 said they had a few drinks, and they bugged L.B. to take
12 them downtown. They are feeling very badly for him, and of
13 course for Henry Ben Francis; they feel that they are
14 somewhat to blame. There is also some indication from one
15 of the passengers that L.B. was unable to slow down and stop
16 the ski-doo as he went across the field. One of the boys
17 was trying to slow it down by dragging his feet, so it might
18 have been some problem with the ski-doo, maybe, I suppose,
19 the throttle getting stuck that caused this to happen. So,
20 it is a most unfortunate occurrence and my sympathy goes out
21 to Henry Ben Francis's family and the rest of the boys who
22 were involved; L. and the other boys. I certainly feel
23 very badly about it. I agree with the police and the Crown;
24 giving L.B. the equivalent of a jail sentence would serve no
25 purpose whatsoever. I'm sure he feels badly enough, but I
26 feel that he should be placed on probation for a period, in
27 order to do community service work during that time. His

1 driving privileges should be restricted so that he will
 2 think about the tragedy and how it might have been avoided.
 3 Would you stand up please, L.? I find you guilty under
 4 Section 233(4), dangerous driving causing the death of Henry
 5 Ben Francis. You are to be placed on probation for a period
 6 of two years, to keep the peace and be of good behaviour and
 7 comply with the other statutory conditions that will be
 8 explained to you, be under the supervision of probation
 9 services and to report to them and to the Court as they
 10 direct: One hundred hours of community service work as
 11 directed by Social Services within six months; and that for
 12 a period of one year, you are not to drive any snow machine
 13 or other vehicle within the limits of the Hamlet of Fort
 14 McPherson. I direct you to remain here in custody until
 15 the Probation Order has been prepared and you have signed
 16 it.
 17

18 -----
 19 I, Janet Harder, Court Reporter, hereby certify that I
 20 attended the above Judgment and took faithful and accurate
 21 shorthand notes and the foregoing is a true and accurate
 22 transcript of my shorthand notes to the best of my skill and
 23 ability.

24 Dated at the City of Calgary, Province of Alberta, this 10th
 25 day of September, A.D. 1987.

26 *Janet Harder* per *S. Murray*, Office Manager.
 27 Janet Harder,
 Court Reporter.

JH/eh