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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

- and -

SUSAN FLECK

Transcript of the oral judgment delivered by His Honour Judge T.B. Davis, sitting at Yellowknife, in the Northwest Territories, Thursday, January 31st, A.D. 1985.

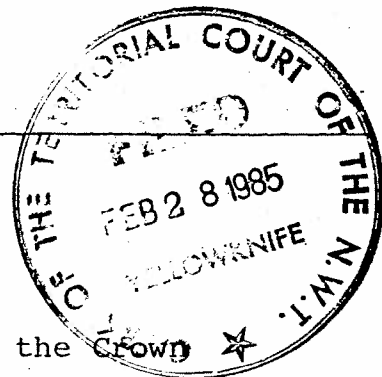
APPEARANCES:

MR. J.D. SUTTON

Counsel for the Crown

MR. J.U. BAYLY

Counsel for the Defence



1 THE COURT: Miss Susan Fleck is charged that she failed to
2 report an accident to the R.C.M.P. on the 30th of September,
3 1984 when her motor vehicle was involved in an accident when
4 damage was done to the front fender near the left headlight.
5 There was an admission of facts submitted by consent of counsel
6 acknowledging the ownership of this vehicle by the accused and
7 the accident. Photographs have shown that the vehicle was
8 a Pinto, somewhat rusted condition, not being a new car.
9 It is obvious that it was difficult to determine what injury
10 was caused to the vehicle by the accident itself, because
11 there seems to be some damage caused or resulting from rust
12 on the fender of the vehicle, as well.

13 The vehicle was observed by the R.C.M.P. with the
14 headlight not operating, and as a result, enquiries were made
15 and the accused was charged with having failed to report the
16 accident, because in the opinion of the R.C.M.P. Officer the
17 repair costs to the vehicle for the damaged parts would have
18 been more than \$200.00. The Vehicle's Ordinance requires that
19 persons involved with accidents where the property damaged is
20 to an apparent extent in excess of \$200.00 are required to
21 immediately report the accident to the R.C.M.P.

22 I am satisfied that repair estimates are very
23 difficult to come by even by persons in the business, because
24 the evidence before the Court has been, through the witnesses
25 called, that when the vehicle was checked the expert witness
26 who was in the body repair business indicated that it would
27 be possible for him to repair the vehicle to at least a

1 running state and suitable for operational state for less
2 than \$200.00, but that if he repaired it with the use of body
3 filler it would be approximately \$250.00, and that if he used
4 completely new materials it would be in excess of \$800.00.
5 I am satisfied as well, and Crown agrees, that it is not
6 necessary to use new parts on repairs of vehicles when they
7 are damaged, especially if the vehicle is not new or deserving
8 of that particular extra expense. One of the other witnesses
9 who had given evidence who is a mechanic and has been involved
10 with the sale of used car parts himself indicated that in his
11 opinion he cannot make a very accurate assessment of damages,
12 because when he does so it is usually wrong after he then has
13 the car repaired and learns the actual cost.

14 At the time of the accident there was very little,
15 if any, damage to the second vehicle involved, and the two
16 parties, being the accused and the owner of the other vehicle,
17 separated without feeling there was any concern for the other
18 vehicle or the driver of the other vehicle.

19 Now, I do acknowledge that the Police witness in
20 this instance has more experience in investigating and reviewing
21 motor vehicle accidents than the accused, and I therefore
22 have to come to a determination on whether or not it was
23 reasonable for the accused to under the circumstances feel
24 that the repairs required to her car would be of less than
25 \$200.00 value. I have looked at the photographs which are
26 relatively clear in showing that the fender of the vehicle
27 was crumpled. And having heard the evidence that it was

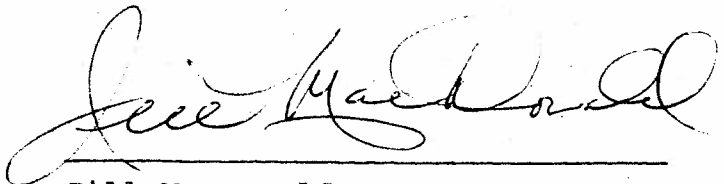
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possible to buy a fender and possibly the parts that could be installed to hold the light in place for anywhere between \$100.00 and \$150.00, I am satisfied that it would not be unreasonable for the accused under those circumstances to estimate that the repairs in total should be possibly able to be done for \$200.00 or less.

Under the circumstances, although there is a strict liability requirement to report, that only comes into effect if the person whose vehicle is injured believes that the repairs would be, in effect, more than \$200.00 in value. Since it is so difficult to determine that amount accurately and since I believe the evidence of the accused herself as straightforward, a person who has told her story and was under the opinion that it would not cost in excess of \$200.00, I am prepared at this time to dismiss the charge against the accused.

MR. BAYLY: Thank you, Your Honour.

Certified a correct transcript,



Jill MacDonald
Court Reporter