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IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

HER MAJESTY THE QUEEN

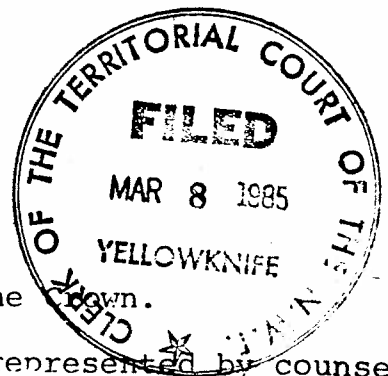
VS

RODGER T. GRUBEN

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---Before HIS HONOUR JUDGE T.B. DAVIS at Tuktoyaktuk,  
Northwest Territories, on October 24th, 1984.

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APPEARANCES:

J.D. SUTTON Counsel for the Crown.

The accused appeared in person unrepresented by counsel.

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His Honour's remarks on imposition of sentence

1 Mr. Rodger Gruben has pleaded guilty to two charges,  
2 admitting that on the 23rd of July, 1984, at Aklavik,  
3 during a dance that was taking place, he became involved  
4 in a disturbance, and participated in the disturbance  
5 by fighting at the dance and, therefore, violating  
6 Section 171 of the Criminal Code, and he admits that  
7 following the dance, while being arrested by a police  
8 officer, he assaulted the officer by striking him,  
9 contrary to Section 246(1) of the Criminal Code.

10 It was early in the morning when the police  
11 were called to the dance because of the disturbance  
12 of three persons, one being the accused, who were  
13 then taken by the police vehicle to the police office  
14 and put under arrest. The accused was the third person  
15 to be involved with the fight because he observed  
16 that a relative of his was being struck by another  
17 person and, as a result of that, he became involved  
18 in the scuffle. When the accused was taken to the  
19 police office, he refused to remove his belt and  
20 refused also to go to the cells when requested and,  
21 upon being approached by the police officer, struck  
22 the officer and caused him to have a cut over his eye.

23 The accused himself feels that at the time the  
24 circumstances were such that he was not as culpable  
25 maybe as it might appear by the record of the facts  
26 as presented.

27 Crown Counsel has properly pointed out that at

1 various public functions fights do arise and disturbances  
2 do occur, and it is often appropriate to impose a fine  
3 on persons involved in fights because that might be  
4 sufficient to cause them not to become involved in  
5 similar offences in the future, and it will show others  
6 that if they do become involved in disturbances that they  
7 might receive some penalties from the court. Fines  
8 often are sufficient penalties to be imposed. The Crown  
9 has suggested, however, with regard to the assault on  
10 the police officer, the Court must recognize the diffic-  
11 ulty of police jobs and the difficulty they have in  
12 enforcing the law for the protection of the public,  
13 because of the circumstances they sometimes find them-  
14 selves in, and when coming upon a crowd in a public  
15 area where there is drinking, it sometimes is very  
16 difficult for the police to function without the assist-  
17 ance of the public. When persons are arrested and taken  
18 to the cells, they must submit themselves to the lawful  
19 authority of the police officers. That is necessary  
20 under the Criminal Code because that is the only way  
21 that the administration of justice can be controlled,  
22 and when persons refuse to do that, it is proper that  
23 they be charged with refusing to take directions by  
24 police officers, and if they resist and strike the  
25 officer, that they be charged.

26 In this case, the accused had lost his temper and  
27 struck the police officer, who had to force him into

1 the cell.

2 Having heard Mr. Gruben, I am satisfied he under-  
3 stands the situation, and that the public would be  
4 protected because Mr. Gruben knows he is not to get  
5 involved in these types of offences in the future,  
6 and will not do so. I am also satisfied that sufficient  
7 penalties to be imposed would be fines rather than what  
8 is ordinarily considered necessary with regard to assaults  
9 on police officers and, as a result, I am prepared to  
10 impose fines today rather than requiring him to go to  
11 jail.

12 On the first offence, causing a disturbance, I  
13 am going to impose a fine in the amount of \$100.00,  
14 or in default thereof, 5 days in jail. On the  
15 second offence, I am going to recognize that is  
16 a more serious offence because of the fact that it  
17 involves a police officer who has the very difficult  
18 responsibility of enforcing the law, and on that charge  
19 I am going to impose a \$200.00 fine, and I am going  
20 to place the accused on probation. Because of his involve-  
21 ment in the community in the past, I am sure he can  
22 participate in some community service work. I am going  
23 to require that the accused perform 25 hours of com-  
24 munity service work to the satisfaction of the prob-  
25 ation officer. I am just wondering if, under the  
26 situation in the community, you might wish to have that  
27 work supervised by someone other than the Probation

1 Officer.

2 MISS LOUIE: I have somebody who can do that.

3 THE COURT: It may be a little awkward for somebody to take  
4 directions from another. Instead of saying, to the  
5 satisfaction of the Probation Officer, I will say, to the  
6 satisfaction of Social Services?

7 MISS LOUIE: Yes.

8 THE COURT: To the satisfaction of the Social Services  
9 Department. That will mean somebody other than the  
10 ordinary Probation Officer.

11 Does that make sense, Mr. Gruben?

12 THE ACCUSED: Yes.

13 MR. SUTTON: What is the period of probation?

14 THE COURT: For 6 months, and the work to be performed  
15 within 3 months.

16 Mr. Gruben, the Clerk will be preparing a Probation  
17 Order that you will be required to sign. Do you under-  
18 stand that?

19 THE ACCUSED: Yes.

20 THE COURT: A \$200.00 fine, and in default, 10 days - 3 months  
21 in both instances for time to pay the fines.

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Certified correct

*G. Mitchell*  
(G. Mitchell - CSR RPR - Court Reporter)