

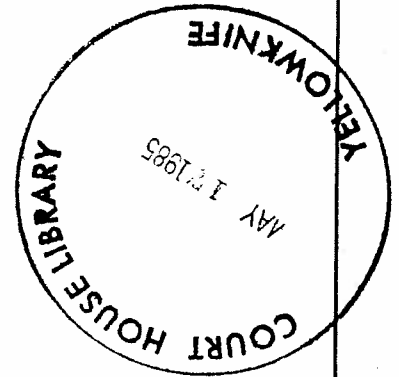
IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER:

HER MAJESTY THE QUEEN

VS

RICHARD MICHAEL HERON



Transcript of Proceedings of an Oral Judgment given
by His Honour Judge R. W. HALIFAX, sitting at Fort
Smith in the Northwest Territories on Wednesday,
February 20, A.D. 1985.

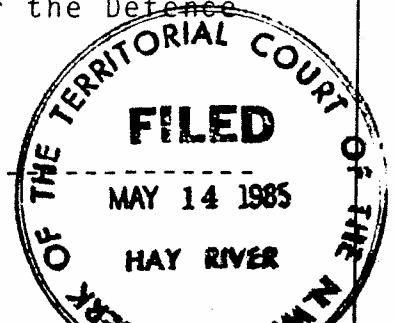
APPEARANCES:

MS. N. BOILLAT

Counsel for the Crown

MR. L. SEBERT

Counsel for the Defence



1 THE COURT:

2 Mr. Heron, you are here on eight Counts of forgery and
3 one Count of theft over. It is interesting about the
4 cases that have been provided to the Court. A lot of them
5 are for theft over, one-Count charges.

6 The Wyness case, which was not dis-
7 closed, was a situation of the conviction being one-fold:
8 making false entries in government records; and that was a
9 guilty plea in the Supreme Court. The reason I know that
10 is it was my last criminal defense before I was appointed
11 to the Bench. It carried a maximum penalty of five-years
12 imprisonment. Theft over, which in a lot of cases that have
13 been referred to, carries a maximum penalty of ten-years
14 imprisonment.

15 The forgery charges which are before
16 the Court, all these Counts each carry a maximum penalty
17 of 14-years imprisonment. In my view, that is a substan-
18 tial difference, the offense that has been charged and of
19 which you have been found guilty. On the other hand,
20 there are a lot of similarities in the theft over offenses
21 that have been cited to the Court. It is very clear in law
22 that, normally, a breach of trust situation of this nature
23 results in a jail term with very few exceptions.

24 I have had the benefit of reviewing
25 the Presentence Report which indicates, Mr. Heron, that
26 perhaps you do not really accept responsibility for your
27 behavior; and you are attempting to rationalize it that
you really did not do anything wrong. People that are in

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a position of trust in our society and accept the responsibility of being in a position of trust are expected from society to deal with that position properly and not use their position for their own benefit and not misuse the trust that is placed on them by society. Mr. Heron, you were placed in a position of trust by the Thebacha Housing Association. You used that position for your own benefit. You forged the name of Mr. Grundy on cheques either payable to yourself or to other persons whereby you received the money.

It seems to me, in the circumstances, you are a first offender. You are 21 years old. The Presentence Report indicates that you seem to be pretty self-motivated, trying to get ahead, perhaps maybe a little too materialistic in your views, which is not unusual in young people. You come from a pretty solid family background.

Now, in considering sentencing as a first offender, I take into consideration Mr. Justice Culliton's comments in R. versus Morrissette in dealing with young, first offenders that if a jail term becomes necessary that it should be one of a short, sharp nature. It is my view, because of the breach of trust and because it was an ongoing situation, basically, for a month, from the 8th of June to the 9th of July, which is really nine incidents including the theft charge, and considering the fact that there is a totality involved, what I am going to

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do, Mr. Heron, is consider what the total sentence should be; and I am going to give you concurrent sentencing. It is either that or going willy-nilly and a small amount on all nine charges so the total does not change. So I am treating it as a continuing offense; although, there are nine offenses which continued over a one-month period. The amount involved is \$1,200. I found out, for example, in the Wyness case the amount involved was something over \$8,000. He was convicted, however, of one offence which carried a maximum penalty of five years and received an eight-month jail term.

Now, taking into consideration all the things I have raised, I do not think the sentence should be so onerous that it destroys any possibility of you continuing on and making a success of yourself in the future. I appreciate, Mr. Heron, that it may cost you substantially already with regard to education and embarrassment; but that goes with a breach of trust. You are the one that got into it. You have to suffer the result.

With regard to Count one, the offense of the 8th of June, 1984, I sentence you to six-months imprisonment. With regard to Counts two, three, four, five, six, seven, and eight, I sentence you to six-months imprisonment to be served concurrently. With regard to the charge under Section 294(a), I sentence you to six-months imprisonment to be served concurrently. It will be followed by a Probation Order for a period of one year.

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The terms of that Probation Order will be that you keep the peace and be of good behavior; you appear before the Court when you are required to do so. Do you understand those two terms?

MR. HERON: Yes, I do.

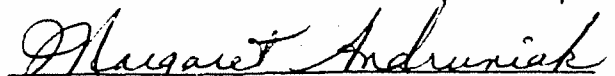
THE COURT: You make restitution in the sum of \$1,204 for distribution in the sum of \$854 to the Canadian Imperial Bank of Commerce and the sum of \$350 to the Thebacha Housing Association, such restitution to be made within a period of nine months from today. Is that understood?

MR. HERON: Yes, sir.

THE COURT: Now, you should realize, Mr. Heron, you now have nine convictions: eight of them for forgery, one for theft over. It may put you in an awkward position in the future. You may find that some employment opportunities may not be open to you because you may not be able to be bonded in the future because of these convictions. It may substantially hinder you in the future, and that is something you are going to have to deal with and live with. I would hope, Mr. Heron, that the jail term may give you time to reflect on your behavior and accept responsibility for it instead of trying to rationalize it away. You seem to have the axe and the tools to be quite successful. It is a shame to see them being wasted on this kind of activity.

That will be all.

Certified a Correct Transcript:


Margaret Andruniak
Court Reporter