

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

IN THE TERRITORIAL COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

HER MAJESTY THE QUEEN

VS

WADE MAGRUM

---

Transcript of the oral decision of His Honour, Chief Judge J. R. Slaven, sitting at Yellowknife in the Northwest Territories, on Friday, ~~June 22nd~~, A.D., 1984.  
*July 20th*

---

APPEARANCES:

MISS N. BOILLAT: Counsel for the Crown

MISS P. SPENCE: Counsel for the Defendant



1 THE COURT: In this very difficult matter, I want to thank  
2 Counsel for their submissions. It's very obvious to me the  
3 amount of work and research that they had to do in order to  
4 make those submissions. It's a difficult case.

5 Since I adjourned the other day, I have considered all the  
6 cases referred to me, 20 I believe in the folder put in by  
7 Miss Spence. The Crown's were not in a folder, so I think I  
8 should refer to them individually: R. vs. MacNelly, R. vs.  
9 Leichman, one and two, R. vs. Wyness, R. vs. Pudnak, R. vs.  
10 Rogers from Prince Edward Island Court and R. vs. Spiller from  
11 the British Columbia Court of Appeal.

12 If I may, I will also refer to the unfortunate situations  
13 in many cases I have had of theft from an employer in the North  
14 in my almost eight years on the bench up here.

15 I think the most difficult sentencing that a Judge has  
16 is when he feels that the accused is of no menace to society,  
17 he doesn't have to be put in jail for that reason, and there  
18 is no violent nature to the crime.

19 He is a first offender and likely he doesn't have to be  
20 deterred, but in effect, we have to impose a jail sentence to  
21 sacrifice an individual in order to try to deter others from  
22 doing a similar thing, and I speak of general deterrence. I  
23 think I mentioned the other day that I remember sentencing an  
24 18 or 19 year old girl here. I may refer to the case which is  
25 unreported. It was a Miss Monuik. She was a clerk in a property  
26 management company here. She cried here and I sent her to jail  
27 and I'm sure the trauma of having been found out and having been

1 charged was enough to deter her forever.

2 I have had many cases and I have gone along with sending  
3 people to jail mostly to deter others and I refer of course, to  
4 Chief Justice Culliton in Saskatchewan in the case of Morrisette  
5 when he talked about the four objectives. First he mentioned--  
6 this is 20 odd years ago and punishment, we never say that any-  
7 more, but I think it has a place in that sometimes we have to  
8 punish, if you wish to continue respect for the law, if there  
9 is such respect. Needless to say I have to give some consider-  
10 ation to that because Mr. Magrum has a high profile in Yellow-  
11 knife.

12 I may say when considering previous cases, there is a  
13 case of Judge Ayotte's. It was an assistant manager who stole  
14 from his employer at the Explorer Hotel a few years ago and  
15 Judge Ayotte did not imprison him. Of course, there was another  
16 one that wasn't referred to, R. vs. Fraser, a member of the  
17 Legislature, who was convicted of using his position and Mr.  
18 Justice Marshall did not imprison Mr. Peter Fraser. He imposed  
19 a heavy fine. Mr. Fraser is in his 60's as I recall, and his  
20 age and his spotless life and reputation, one of service to  
21 the North were taken into consideration.

22 Now, Mr. Magrum, as you recall, came up to the North in  
23 the 60's and his brothers and his mother. Eventually Mr. Magrum  
24 came to Yellowknife, I believe in 61 or--in any event, started  
25 working for Lanky, Meyers, Lanky Insurance. I didn't have  
26 the pleasure and advantage of knowing Mr. Meyers. When I came  
27 here in October '71, he was in a lengthy terminal illness.

1        However, when I was working for the Government in '72, there was  
2        a very unfortunate automobile collision between Yellowknife and  
3        the airport. There were several deaths. I believe a taxi  
4        was involved and it turned out neither vehicle had insurance.

5                As a result of that, I and my boss, the Deputy Minister,  
6        and the Superintendent of Insurance in the Northwest Territories  
7        Gordon Carter, went out to Edmonton and we met with the rep-  
8        resentatives and lawyers from the Insurance Bureau of Canada  
9        and we talked to the representative of the underwriters or the  
10        salesmen, if you wish, of Western Canada and the top man from the  
11        Facility, I believe they called it.

12                At that meeting, they agreed that all licensed drivers in  
13        the Northwest Territories would be covered for insurance by the  
14        Insurance Industry of Canada and these several people I met who  
15        had been in the business all these years told me stories about  
16        Mr. Meyers. I don't know what brought him up here first, but when  
17        he started selling insurance, it was awfully hard to get com-  
18        panies to insure in the North and they told me that great big  
19        tall fellow would go down to insurance companies in Edmonton  
20        or Toronto and he would say, I want to see the President or, I  
21        want him to start writing insurance in Yellowknife. He would  
22        sit in the outer office and he'd say, I'm going to sit here all  
23        week or all month until I see that, and the result was that when  
24        I came to Yellowknife in 1971, Lanky Insurance Agency had a  
25        ground floor office in what is now the telephone company office  
26        and I was able to go in and buy insurance.

27                At that time Mr. Meyers was ill and apparently Mr. Magrum

1 was running the office. Not too long after that, Mr. Meyers  
2 died and Mr. Magrum--I may say I heard Mr. Magrum on the stand.  
3 He was utterly completely honest and open and I accept his test  
4 imony and just as I accept the thruthfullness of the letter he  
5 wrote to his partners in January of 1984.

6 Lanky had built up a business that provided a service, a  
7 necessary service to the North. Mr. Magrum in his testimony  
8 said there were some efforts and invitations to try and sell  
9 the business in Yellowknife, but they didn't work out. So, a  
10 large international conglomerate bought out Lanky.

11 A couple of years later, my renewal had come up and I may  
12 say I worked in the insurance business for some years long before  
13 I came to Yellowknife in All State and we issued our renewals  
14 from our head office and we didn't use independent agents like  
15 Lanky, but we sent out our renewals at least six weeks before  
16 the renewal date, but once this big company took over, by golly,  
17 I wasn't getting my renewals.

18 I remember it so well. Instead of getting a renewal or  
19 insurance card, I got a temporary card in the mail that I was  
20 covered for a month. I went out on circuit to Frobisher Bay,  
21 I recall it very well, and came back Friday evening and going  
22 through my mail and so on, intending to take my automobile to  
23 do my shopping on Saturday and I looked at this temporary card,  
24 and I realized my insurance had expired that day, so I called  
25 the big company Saturday and couldn't get them. Then, I called  
26 a local guy and he said, "Okay, Jimmy, you are covered, go out  
27 and drive".

1           So, I transferred my insurance to Wes MacAleer and he  
2 eventually sold out to Loberg. I had a house and a cottage.  
3 A year later I wanted to sell my cottage and I bought another  
4 one. I went into this big company and told them. Eight months  
5 later, I still had nothing in writing that I was covered and  
6 I went up to them and they said I was covered and I said, I'm  
7 covered until I have a fire and I took my fire insurance away.  
8 I think that's been the history of most of us that have been  
9 in Yellowknife for more than 12 years.

10           We were all insured by Lanky and it all went down the drain.  
11 Mr. Magrum, when it was Lanky, became assistant manager. When  
12 it was sold out, he was account executive. It wasn't much more  
13 than a salesman job. Maybe if they made Mr. Magrum manager of  
14 the office, maybe they would still be doing big business instead  
15 of losing all their business and now, in effect, have pulled out.

16           So, he worked in the insurance business for over 20 years  
17 here in Yellowknife. He apparently--well, I didn't ask him  
18 when he was on the stand, but of course, salaries, you can't  
19 compare one year to the next because of the inflation and so on,  
20 but he was maintaining a large house, not only for his own ben-  
21 efit, but for his widowed mother and his brothers. Apparently  
22 he had very heavy expenses and maybe the fact that all of us  
23 Yellowknifer's, so many of us took our insurance away, left him  
24 with a reduced income and he got into a position where he couldn't  
25 meet his financial obligations and started going into debt.  
26 Apparently, his only luxury expenses were doing some drinking  
27 in bars and in selling insurance, you are going to do some of

1 that, I guess, and he's taken a good vacation every year.

2 His income wasn't sufficient because of that and as members  
3 of his family dropped off, he sold the house and moved into  
4 an apartment and tried to cut down, but it still wasn't enough.  
5 He was going in the hole, over \$10,000 owing on credit cards.  
6 My Golly, what was the interest on that at the time, 24 or  
7 28 percent, something like that. He kept going in the hole.

8 I accept his testimony completely and I go back to it.  
9 He decided to leave this big company and try to set up another  
10 local one in Yellowknife. On the stand, he said he was leaving  
11 for two reasons, and actually it comes to three. The big company  
12 was reducing the work done here, maybe computers had something  
13 to do with this, by moving the servicing to Edmonton. He felt  
14 that wasn't fair to the North and I accept that wholeheartedly.

15 He had dreams of many years of having his own agency for  
16 providing his service to the North. I accept that and I can  
17 see that remuneration he was getting from his employer. It  
18 was not sufficient to get him out of debt. He wanted to have a  
19 fresh start.

20 Now, he didn't have the money to make a fresh start on  
21 his own, and I would take it that an independent agency, in-  
22 surance agent starting up on his own isn't going to make any  
23 money on renewals and referral business.

24 So, he would have to have some partners who would provide  
25 him with the office and other support and also pay him a salary  
26 and that's just what happened. The company was set up with  
27 monies provided by, I will call them his partners, Mr. O'Donoghue

1 and Mr. Murphy, though really it was a corporate structure,  
2 but I would call them partners who put up the money and he was  
3 running it, virtually a one-man operation. He was in complete  
4 control, doing all the bookkeeping and selling and everything.

5 I suppose maybe if he had any dishonesty in his bones, he  
6 would have had opportunity years ago to steal money from his  
7 previous employers. Certainly when this situation arose he did,  
8 and apparently because of the amount of money he owed, drove  
9 him to drink more, cost him, and it's a snowballing thing.

10 He started taking a bit of money out of the cash and in  
11 the early days, he was putting it back, but then more and more  
12 and he got so deeply in, he couldn't do without, and what a hell  
13 it must have been for him.

14 I must say I don't know Mr. Magrum, but I've got to recall  
15 in the last year or two ago as I walked to work sometimes in  
16 the morning I'd meet him walking the other way. I might have  
17 said he didn't say hi, but I guess he had so many worries on  
18 his mind or maybe he didn't recognize me. I don' know.

19 I can relate to Mr. Magrum. I had a one-man law office in  
20 Cape Breton years ago when things were really tough. I was  
21 only a block from the court house, but I used to have to walk  
22 four blocks because I was afraid to walk by the bank because  
23 the banker would have dragged me in and I hated it. I owed  
24 money and I couldn't bear to be there to hear the phone ring  
25 for fear it was one of my creditors.

26 I must say your situation is a classic one and I'm utterly  
27 and completely convinced that you didn't start with any intention c



1 stealing any money, that you started borrowing a bit and putting  
2 it back and you borrowed a bit and put it back and it got too  
3 much and you couldn't put it back. You'd rather close your  
4 eyes and you didn't know how much you owed to the company, you  
5 just knew it was more than you could handle.

6 Now, I would think that's a classic situation, but in  
7 honesty, in the dozens of breach of trust thefts I have had  
8 in the North, they have not been that way. The usual ones up  
9 here involve the Government or the Bay or the Housing Corporation  
10 of the Settlement Council or whatever.

11 Many of the perpetrators have been indignious people of  
12 the North and I always sent them to jail. Again, deterrence.  
13 But sometimes I feel I wasn't deterring anybody out there; I  
14 often felt I was sacraficing some of these individuals to no  
15 good effect and also I felt that the Government and others  
16 through 50 years, have utterly spoiled the native people and  
17 their values by keep throwing monies at them. If you get a  
18 fire truck and strip the gears, that's all right, they will  
19 give you a bigger fire truck next year.

20 It's going to a problem I have faced dozens of times and  
21 it's a tough one, but I have always come down on general de-  
22 terrence and given jail sentences because always there has  
23 been the Government or the Bay, being one of the Holy Trinity.  
24 You can count the Bay much like the Government and the co-ops,  
25 I suppose.

26 But in this case, Miss Spence, I'm not going to refer to  
27 the 20 cases you referred to me, where you pointed out to me

1 there can be exceptional circumstances. I feel this is an  
2 exceptional circumstance. The main thing is Magrum himself.  
3 He's the offender, but he's the main victim. He's 57 years  
4 of age. He's been in the insurance business in Yellowknife  
5 for 22 years. He's been a leading citizen, a fine citizen in  
6 Yellowknife and involved in sports. He's been President,  
7 treasurer, whatever of the Bowling Association and Yellowknife  
8 is his home.

9 He's 57. He's lost his license to sell insurance. Now,  
10 that part doesn't make it exceptional because people in positions  
11 of trust, let's say Casey Jones, I think that case is before  
12 me, but in any event, he was in his 50's and lost his job with  
13 the Government. I don't know what he's doing now. He was his  
14 own victim. I feel it's even more so here. It is exceptional.

15 So many of these cases, Spiller or whatever and cases in-  
16 volving lawyers. You can't argue the good reputation both ways.  
17 If you have a good reputation, he wouldn't have had the oppor-  
18 tunity to steal this money, so he lost his reputation and  
19 everything. Fine.

20 In this case, I went through a long summary of my experience  
21 in Yellowknife and in the insurance business because the three  
22 reasons Mr. Magrum says he wanted to strike out on his own I  
23 buy wholeheartedly. He wasn't only doing it for himself, but  
24 now he's blown it.

25 I hope he can get a job at 57. Obviously it's not going  
26 to be in the insurance business, which has been his life's  
27 business for well over 20 years. He's the victim, the main

1 victim and you know you can't help but read in the newspaper  
2 in Yellowknife. I know that six or eight months ago I saw ad-  
3 vertisements ensuring the public that Mr. Magrum was no longer  
4 involved with Magrum Insurance Limited. I noted in the paper  
5 on Wednesday that the business is still being carried on in  
6 his name. His name means something. He's got a good name in  
7 Yellowknife and in the insurance business, but he will never  
8 get back into it.

9 I think I have got to make a particular reference to mag-  
10 azine articles Miss Spence submitted to me.

11 MISS SPENCE: That's from the Defendant Lawyer's Assosication  
12 on the newsletter.

13 THE COURT: Yes. Well, I note that Chief Justice Mayrand of  
14 the Quebec Court of Sessions of the Peace to the Minister's  
15 declaration that prison sentences should only be reserved for  
16 violent criminals. I know Chief Justice Mayrand and I think  
17 very highly of him. For example, he was given the task of  
18 sentencing all the Cross and LaPorte kidnappers as they dribbled  
19 back to Quebec.

20 He refers to the minesterial declarations that only violent  
21 people should be in jail, but I don't accept that because you  
22 see so many in the North who are just utter public nuisances  
23 with continual thefts, break and enters and so on, and although  
24 they are not violent, they are community nuisances and must  
25 go to jail. Is this the case with Mr. Magrum?

26 Is there any reason in the world I should send him to jail?  
27 It wasn't a matter of theft from the Government or let's say

1 quasi government, the Hudson Bay Comapny or co-ops or what have  
2 you. Do I have to give any weight to deterring of others? Whe  
3 it is theft from the Government, semi-quasi government things,  
4 I think I have to. In this case, I don't think I do.

5 Do I have to send him to jail to deter him from repeating  
6 this? I have seen him on the stand. I have known him by  
7 reputation in the community. I have heard the whole story and  
8 I don't think I do. Do I have to sentence him to jail to up-  
9 hold respect for the law? I don't think I do.

10 Would you stand up, please, Mr. Magrum. I convict you as  
11 charged and suspend the passing of sentence. I direct you to  
12 be placed on probation for a period of two years, to keep the  
13 peace and be of good behaviour, to be under the supervisions of  
14 probation services and report to them and to the Court as they  
15 direct.

16 I also direct as a term of the probation order that you  
17 are to co-operate in such debt counselling services as probation  
18 services may arrange for you or approve as being worthwhile  
19 to you.

20 Having convicted you, I sign the order that you pay to  
21 Magrum Insurance Services Limited the sum of \$40,000. Have I  
22 missed anything?

23 MISS BOILLAT: I don't believe so, sir.

24 MISS SPENCE: No, sir.

25 THE CLERK: The order for the sum of \$40,000, does that go  
26 on the information?

27 THE COURT: No. I will sign it now as dated the 16th, so  
you can amend that. I have amended the original and you can

1 amend the copies, Madame Clerk. Okay?

2 THE CLERK: Yes.

3 (AT WHICH TIME THIS PROCEEDING WAS CONCLUDED)  
4

5 Certified a correct transcript,  
6

7 *Brenda MacDougall*  
8 Brenda MacDougall  
9 Court Reporter  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27